JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF KENTUCKY

Regular Session of 1986

Volume I

Held in the State Capitol in the Capitol City of Frankfort, at
Frankfort, in the Year of Our Lord 1986, and
in the One Hundred and ninety-Fourth
Year of the Commonwealth

Begun on the Seventh Day of January, 1986, and Adjourned
Sine Die on the Fifteenth Day of April, 1986

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1986.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Rolls calls on motions to pass legislation have been compiled at Appendix A.

Mrs. Shan Stone Gray, Mrs. Jeanne Wallace, Mrs. Myra Aitken and Mrs. Delores Dearborn prepared the 1986 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1986

JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF KENTUCKY

REGULAR SESSION

1986

TUESDAY, JANUARY 7, 1986

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 7, 1986, the one hundred and ninety-fourth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Donald J. Blandford assumed the Chair and called the House to order.

Prayer by Reverend J. Williamson Brown of the Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Smith.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

The Speaker announced the membership of the House remained the same as in the Organizational Session of 1985 with the exception of Representative Ray Brown's vacant seat.

Representative Stumbo moved the nomination of the following Constitutional Officers:

Chief Clerk	Evelyn Marston
Assistant Clerk	Sue Hagg
Enrolling Clerk	Margaret Watts
Sergeant-at-Arms	Stewart Kelly
Chief Doorkeeper	Emmett Slattery
Cloakroom Keeper	William E. Davis
Cloakroom Keeper	Albert Robinson
Janitor	Harold Conn
Page	Rick Campbell
Page	Wendy Phillips
Page	Carl Stout
Page	Steven Terrell

Representative Stumbo moved that the nominations cease. Agreed.

Representative Stumbo moved that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable William M. Gant, Justice, Supreme Court of Kentucky.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 13, by Representatives Stumbo, Blandford, Donnermeyer, Rapier, and Turner: A RESOLUTION adopting temporary rules to govern the House of Representatives.

Representative Stumbo moved the adoption of the following HR 13:

HR 13, A RESOLUTION adopting temporary Rules to govern the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Rules adopted by the House of Representatives to govern the 1984 regular session of the House of Representatives, as amended by House Resolution 24 of the Organizational Session of 1985, be adopted as the temporary Rules governing the session beginning January 7, 1986, to remain in effect until superseded by the adoption of permanent Rules.

HR 13 was adopted by voice vote.

Introduction of Bills and Resolutions

HJR 1, by Representative Burch, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: A JOINT RESOLUTION directing the expansion of spouse abuse shelters within the Commonwealth.

HR 2, by Representative P. Richardson: A RESOLUTION requesting that the Legislative Research Commission, by and through an interim joint committee thereof, examine the advisability of adjusting the boundary lines of certain counties within the Commonwealth, pursuant to Sections 64 and 65 of the Constitution of Kentucky, so as to situate the Lexington Facility of the Lexington-Blue Glass Depot Activity in a county most representative of the residence and domicile of the employees of that institution, or, in the alternative, examine the advisability of imposing statutory limitations upon the authority of local governments to tax the payroll income of nonresidents.

HCR 3, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives McElroy, Arnold, and P. Richardson: A CONCURRENT RESOLUTION directing a study of occupational license taxes.

HCR 4, by Representatives Stumbo, McElroy, Head, Pritchett and Siler: A CONCURRENT RESOLUTION urging the Congress of the United States to continue funding the Federal Job Corps.

HCR 5, by Representative Noe: A CONCURRENT RESOLUTION requesting the United States Congress to investigate coal imports and to restrict such imports as appropriate.

HCR 6, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Lear and Meyer: A CONCURRENT RESOLUTION directing a study and publication of the statutory differences which exist between Kentucky's classes of cities.

HCR 7, by Representative Pearman: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the future availability of nursing home beds and whether the Commonwealth should build its own long-term care facilities to care for medical assistance patients.

HR 8, by Representative Donnermeyer: A RESOLUTION adjourning the House of Representatives in commemoration of the 75th anniversary of the dedication of the new state capitol building.

HCR 9, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives Scorsone, K. Harper, O'Brien, Gregory, Brinkley and Bronger: A CONCURRENT RESOLUTION establishing a Low-Income Energy Task Force.

HB 1, by Representatives Cowan, Priddy and Blandford, with a recommendation for passage by the Task Force on Elections and Constitutional Amendments: AN ACT proposing to amend the Constitution of Kentucky relative to officers of cities.

HB 2, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Burch and L. Clark: AN ACT relating to the registration of geologists.

HB 3, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Hancock, Gregory, and Gedling: AN ACT relating to public finance.

HB 4, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Hines, Meyer, Lear, Long, and McNutt: AN ACT relating to enterprise zones.

HB 5, with a recommendation for passage by the Interim Joint Committee on Health and Welfare, by Representative Burch: AN ACT relating to anatomical gifts.

HB 6, by Representative Mack, with a recommendation for passage by the Interim Joint Committee on Business Organizations and Professions: AN ACT relating to embalmers and funeral directors.

HB 7, for the Capital Construction and Equipment Purchase Oversight Committee with a recommendation for passage, by Representative Long: AN ACT relating to leasing.

HB 8, by Representative Donnermeyer: AN ACT relating to probation and parole.

HB 9, by Representative McNutt: AN ACT relating to crimes and punishments.

HB 10, by Representative Jensen: AN ACT relating to deputy sheriffs.

HB 11, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Hancock and Gedling: AN ACT relating to taxation of legal process.

HB 12, by Representative Handy: AN ACT relating to crimes and punishments.

HB 13, by Representative McNutt, with a recommendation for passage by the Interim Joint Committee on Transportation: AN ACT relating to the Kentucky Airport Zoning Commission.

HB 14, by Representative Cowan: AN ACT relating to county officials.

HB 15, by Representative J. Harper: AN ACT relating to traffic.

HB 16, by Representative Morris: AN ACT relating to motor vehicle registration.

HB 17, by Representative Farrow: AN ACT relating to crimes and punishments.

HB 18, by Representative Gedling: AN ACT relating to transportation for school children.

HB 19, by Representatives White, P. Richardson, J. Harper, Cline, and Keith: AN ACT relating to teachers retirement.

HB 20, by Representative Bendl, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT relating to boarding homes.

HB 21, by Representative Rose: AN ACT relating to assistant teachers.

HB 22, by Representatives Rapier and Mack: AN ACT relating to education.

HB 23, by Representative Curd, with a recommendation for passage by the Interim Joint Committee on Education: AN ACT relating to school employes who are members of the county employes retirement system.

HB 24, by Representatives Arnold, Crupper, Blandford, Bronger, Burch, Burnette, L. Clark, P. Clark, Cowan, Donnermeyer, Ford, Gelding, J. Harper, Johnson, Kerr, Lefevers, Long, Layman, Mann, McNutt, Moberly, Morris, Napier, Noland, Pearman, Preston, Reinhardt, P. Richardson, Riner, Rose, Seum, Stewart, Strong, Stumbo, Todd, Turner, Williams, Worthington and Yates: AN ACT relating to education.

HB 25, by Representative Hines: AN ACT relating to licensing of medical utilization review organizations.

HB 26, by Representative Mack: AN ACT relating to sick leave for school employes.

HB 27, by Representative Rattliff: AN ACT relating to retirement.

HB 28, by Representative McElroy: AN ACT relating to the University of Kentucky Board of Trustees.

HB 29, by Representative Scorsone: AN ACT relating to social workers.

HB 30, for the Subcommittee on Veterans' Affairs with a recommendation for passage, by Representatives Pearman, Morris, Siler and Bruce: AN ACT relating to state veterans' nursing homes and declaring an emergency.

HB 31, by Representative McElroy: AN ACT relating to motor vehicle registration.

HB 32, by Representative J. Harper: AN ACT relating to traffic.

HB 33, by Representative Yates: AN ACT relating to pollution control.

HB 34, for the Interim Joint Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Thomas and Reinhardt: AN ACT relating to alcoholic beverage control.

HB 35, by Representatives Morris and Curd, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to representative districts and declaring an emergency.

HB 36, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cline, Pearman, Dawahare, Head, Kerr, Layman, Little, Maggard, McBee, Noland, Seum and Worthington: AN ACT relating to motor vehicle taxation.

HB 37, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Thomas and Reinhardt: AN ACT relating to alcoholic beverage control.

HB 38, by Representative J. Harper: AN ACT relating to motor vehicles.

HB 39, by Representative Lear: AN ACT relating to crimes and punishments.

HB 40, by Representatives T. Jones, Noe, and P. Richardson, with a recommendation for passage by the Interim Joint Committee on Education: AN ACT relating to educational purposes and making an appropriation therefor.

HB 41, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives P. Richardson, Mack, Todd, and Crupper: AN ACT relating to occupational therapy.

HB 42, for the Interim Joint Committee on Cities with a recommendation for passage, by Representative Long: AN ACT relating to the training and technical assistance needs of local government.

HB 43, by Representative Bennett: AN ACT relating to public petitions.

HB 44, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Crupper, Reinhardt and Bronger: AN ACT relating to the certification of dietitians and nutritionists.

HB 45, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives McBee and Seum: AN ACT relating to salary supplements for public employes.

HB 46, by Representative Guenthner: AN ACT relating to criminal justice data.

HB 47, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Pearman and Maggard: AN ACT relating to motor vehicles.

HB 48, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Little and Noland: AN ACT relating to plans for state highways and parkways.

HB 49, by Representatives Hines, Bendl and Blevins: AN ACT relating to the protection of adults.

HB 50, by Representative Bendl: AN ACT relating to personal service contracts.

HB 51, by Representative Bendl: AN ACT relating to racketeering activity.

HB 52, by Representative Long: AN ACT relating to interstate compacts on subsidized adoptions.

HB 53, by Representative Bendl: AN ACT relating to persons with developmental disabilities and making an appropriation therefor.

HB 54, by Representative L. Clark: AN ACT relating to building codes.

HB 55, by Representative Long: AN ACT relating to liability insurance.

HB 56, by Representative Burch: AN ACT relating to adoption.

HB 57, by Representative Bendl, with a recommendation for passage by the Interim Joint Committee on Health and Welfare.

HB 58, by Representatives Scorsone and Mack: AN ACT relating to a pledge of allegiance to the flag of the Commonwealth of Kentucky.

HB 59, by Representatives Farrow and P. Richardson: AN ACT relating to vocational education.

HB 60, by Representative Meyer: AN ACT relating to persons who may attend executions.

HB 61, for the Interim Joint Committee on Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representative Brinkley: AN ACT relating to campaign finance regulation.

HB 62, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Deskins and McElroy: AN ACT relating to mining.

HB 63, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper, LeMaster and Napier: AN ACT relating to agriculture.

HB 64, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper and Arnold: AN ACT relating to amusement rides and attractions.

HB 65, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage by Representatives Deskins and Rose: AN ACT relating to surface mining.

HB 66, by Representatives L. Clark, Burch, Bennett and Yates: AN ACT relating to annexation.

HB 67, for the Subcommittee on Veterans' Affairs with a recommendation for passage, by Representatives Pearman, Hancock and Siler: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 68, for the Subcommittee on Veterans' Affairs with a recommendation for passage, by Representatives Pearman, Morris, Siler and Hancock: AN ACT relating to veterans.

HB 69, by Representative O'Brien: AN ACT relating to intergovernmental finance.

HB 70, by Representative Riner, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to state buildings.

HB 71, for the Interim Joint Committee on Judiciary-Criminal with a recommendation for passage, by Representatives Kerr and Priddy: AN ACT relating to crimes and punishments.

HB 72, for the Interim Joint Committee on Judiciary-Criminal with a recommendation for passage, by Representatives Kerr and Priddy: AN ACT relating to prisons.

HB 73, by Representatives Meyer, Morris and Seum: AN ACT relating to crimes and punishments.

HB 74, for the Interim Joint Committee on Judiciary-Criminal with a recommendation for passage, by Representatives Priddy and Kerr: AN ACT relating to prisons and prisoners.

HB 75, by Representatives Noland, P. Richardson and Farrow: AN ACT relating to psychiatric and similar services for criminal defendants.

HB 76, by Representative Priddy: AN ACT relating to crimes and punishments.

HB 77, by Representative Riner: AN ACT relating to crimes and punishments.

HB 78, by Representative Pearman: AN ACT relating to long-term care facilities.

HB 79, by Representative Farrow: AN ACT relating to law enforcement.

HB 80, by Representative Long: AN ACT relating to subsidized adoption.

HB 81, by Representative Stone: AN ACT relating to water districts.

HB 82, by Representative Holbrook, with a recommendation for passage by the Interim Joint Committee on Judiciary-Civil: AN ACT relating to parental visitation rights.

HB 83, by Representatives Stone, Cline and White: AN ACT relating to teachers retirement.

HB 84, by Representatives Meyer and Reinhardt: AN ACT relating to domestic relations commissioners.

HB 85, by Representative Turner: AN ACT relating to fences.

HB 86, by Representatives Mack, Stewart and Jensen: AN ACT relating to legislative retirement.

HB 87, by Representative Scorsone: AN ACT relating to legislative compensation.

HB 88, by Representative Donnermeyer: AN ACT relating to juries.

HB 89, by Representative Burch: AN ACT relating to unemployment compensation.

HB 90, by Representative Seum: AN ACT relating to electric generating facilities.

HB 91, by Representative Seum: AN ACT relating to public utilities.

HB 92, by Representative Seum: AN ACT relating to electric and gas utility service.

HB 93, by Representative Seum: AN ACT relating to the public service commission.

HB 94, by Representative White: AN ACT relating to coal mining.

HB 95, by Representative Little: AN ACT relating to surface coal mining.

HB 96, by Representative Richards, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue: AN ACT relating to the transfer of funds.

HB 97, by Representative Long: AN ACT proposing to amend the Constitution of Kentucky relating to the superintendent of public instruction.

HB 98, by Representatives Rattliff, Reinhardt and Williams: AN ACT relating to grain.

HB 99, by Representatives J. Harper, Preston and Stewart: AN ACT relating to hazardous materials.

HB 100, by Representative Mack: AN ACT proposing an amendment to the Kentucky Constitution relating to the superintendent of public instruction.

HB 101, by Representative Mack: AN ACT relating to the presidential preference primary.

HB 102, by Representative Meyer: AN ACT proposing to amend the Constitution of Kentucky relative to penitentiary prisoners.

HB 103, by Representative Burnette: AN ACT relating to the presidential preference primary.

HB 104, by Representative Maggard: AN ACT relating to surface coal mining.

HB 105, by Representatives Maggard, Napier and Kerr: AN ACT relating to elementary and secondary education.

HB 106, by Representative Reinhardt: AN ACT relating to legislative compensation.

HB 107, by Representative Seum: AN ACT relating to the public service commission.

HB 108, by Representatives J. Harper, Preston and Stewart: AN ACT relating to hazardous materials.

HB 109, by Representatives Cline, Cyrus, Maggard, Layman, P. Richardson, Rattliff, Pritchett, Curd, Brinkley, L. Clark, McElroy and Kerr, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue: AN ACT relating to the transfer of funds.

HB 110, by Representative Farrow: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 111, by Representative Long: AN ACT relating to arson investigation.

HB 112, by Representative Maggard: AN ACT relating to income taxes.

HB 113, by Representatives J. Harper and Mack: AN ACT relating to retirement.

HB 114, by Representatives Donnermeyer and Mann: AN ACT relating to motor vehicle emission inspections and maintenance and making an appropriation therefor.

HB 115, by Representative Seum: AN ACT relating to domestic relations.

HB 116, by Representative Long, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue: AN ACT relating to inheritance tax.

HB 117, by Representatives Gray, Meyer, Morris, Blevins and Long: AN ACT relating to hazardous duty coverage.

HB 118, by Representative J. Harper, with a recommendation for passage by the Interim Joint Committee on Agriculture and Natural Resources: AN ACT relating to hazardous waste.

HB 119, by Representative Burnette, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue: AN ACT relating to the property tax.

HB 120, by Representative Meyer: AN ACT relating to local governments.

HB 121, by Representative Mack: AN ACT relating to limestone.

HB 122, by Representative Hines: AN ACT relating to local government.

HB 123, by Representative J. Harper: AN ACT relating to law enforcement activities of state government.

HB 124, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representatives Brinkley and Hancock: AN ACT relating to elections.

HB 125, by Representative White: AN ACT relating to textbooks and making an appropriation therefor.

HB 126, by Representatives Crupper, McBee, Reinhardt, P. Richardson, Todd, Arnold, M. Brown, Kerr, Strong, Keith, Turner, Long, Thomas, Meyer, Blevins, Gedling, Burnette, Cline, Layman, Seum, Rapier, Allen, Yates, Bronger, Cyrus and Farrow: AN ACT relating to motor vehicles.

HB 127, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper, Gedling and Farrow: AN ACT relating to agriculture.

HB 128, by Representative Dawahare: AN ACT relating to retirement.

HB 129, by Representative Heleringer: AN ACT proposing to amend the Constitution of Kentucky relative to city officers.

HB 130, by Representative Farrow: AN ACT relating to the income tax.

HB 131, by Representative J. Harper: AN ACT proposing an amendment to the Kentucky Constitution relating to the term of governor.

HB 132, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 133, by Representative J. Harper: AN ACT relating to emergency vessels.

HB 134, by Representative Donnermeyer: AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

HB 135, by Representative Farrow: AN ACT relating to financial disclosure by banks, savings and loan associations, credit unions, insurance companies, and other financial institutions.

HB 136, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives K. Harper and Mann: AN ACT relating to income taxes.

HB 137, by Representative Little: AN ACT relating to hazardous duty coverage.

HB 138, by Representatives Bendl, Hines, Clarke, Overstreet, Moberly, R. Jones, Cowan, T. Jones, Mann, Deskins, LeMaster, Hancock, Priddy and Barrows: AN ACT relating to living wills.

HB 139, for the Special Committee to Study Local Planning and Zoning with a recommendation for passage, by Representatives Lear and Arnold: AN ACT relating to planning and zoning.

HB 140, for the Special Committee to Study Local Planning and Zoning with a recommendation for passage, by Representatives Lear and Arnold: AN ACT relating to planning and zoning.

HB 141, by Representative Turner: AN ACT relating to mobile homes.

HB 142, by Representative Yates: AN ACT relating to county judge/executive appointments.

HB 143, by Representative Barrows: AN ACT relating to psychologists.

HB 144, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper and Farrow: AN ACT relating to agriculture.

HB 145, for the Subcommittee on Veterans' Affairs with a recommendation for passage, by Representatives Pearman, Bruce and Siler: AN ACT relating to the income tax.

HB 146, by Representative Johnson: AN ACT relating to professions.

HB 147, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Lear and Meyer: AN ACT relating to the organization of cities of the sixth class.

HB 148, by Representative Gedling: AN ACT relating to handicapped persons.

HB 149, for the Task Force on Small Business with a recommendation for passage, by Representatives Morris, Seum, Reinhardt, Kerr and Napier: AN ACT relating to tax credits for capital investment.

HB 150, for the Task Force on Small Business with a recommendation for passage, by Representatives Burnette, Morris, Arnold and Kerr: AN ACT relating to a linked investment loan program.

HB 151, by Representative Donnermeyer: AN ACT relating to a linked deposits loan program.

HB 152, by Representative P. Richardson: AN ACT relating to public health.

HB 153, by Representatives Little and Rose: AN ACT relating to railroads.

HB 154, by Representatives Burnette and Bruce: AN ACT relating to retail sales of farm equipment.

HB 155, by Representatives P. Clark and M. Brown: AN ACT relating to insurance.

HB 156, by Representatives Lear and L. Clark: AN ACT relating to open meetings of public agencies.

HB 157, by Representative Lear: AN ACT relating to parole.

HB 158, by Representative Bennett: AN ACT relating to voter registration.

HB 159, by Representatives Cline and Stone: AN ACT relating to teachers retirement.

HB 160, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Crupper, Gedling and Farrow: AN ACT relating to excused absence from school to attend the North American International Livestock Exposition.

HB 161, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives K. Harper, Mann, McBee, Scorsone, Brinkley, Bronger and Gregory: AN ACT relating to energy assistance and conservation.

HB 162, by Representative Bruce: AN ACT relating to health care malpractice.

HB 163, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Burnette and McElroy: AN ACT relating to grain.

HB 164, by Representative Little: AN ACT relating to persons convicted of crimes.

HB 165, by Representatives Guenthner and L. Clark: AN ACT relating to local development.

HB 166, by Representative L. Clark: AN ACT relating to contractors.

HB 167, by Representative L. Clark: AN ACT relating to the county through road system.

HB 168, by Representative L. Clark: AN ACT relating to cities.

HB 169, by Representative L. Clark: AN ACT relating to education.

HB 170, by Representative L. Clark: AN ACT relating to establishment of an electrical advisory committee.

HB 171, by Representative Reinhardt: AN ACT relating to inheritance tax.

HB 172, by Representative Rose: AN ACT relating to voting.

HB 173, by Representative Reinhardt: AN ACT relating to boats.

HB 174, by Representative Reinhardt: AN ACT relating to health insurance.

HB 175, by Representative Reinhardt: AN ACT relating to unemployment insurance benefits.

HB 176, for the Subcommittee on Veterans' Affairs with a recommendation for passage, by Representatives Pearman and Hancock: AN ACT relating to retirement credit for military service.

HB 177, by Representatives Donnermeyer and Mann: AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

HB 178, by Representative Burch: AN ACT relating to missing children.

HB 179, by Representatives Stumbo, Blandford, Donnermeyer, Rapier, Turner, and Worthington: AN ACT making an appropriation to the Legislative Research Commission, and declaring an emergency.

HB 180, by Representative Pearman: AN ACT relating to higher education.

HB 181, by Representative Pearman: AN ACT relating to death benefits.

HB 182, by Representative Stewart: AN ACT relating to automobile insurance.

HB 183, by Representative Stewart: AN ACT relating to health insurance.

HB 184, by Representative Stewart: AN ACT relating to financial institutions.

HB 185, by Representative Stewart: AN ACT relating to insurance.

HB 186, by Representative Stewart: AN ACT relating to insurance.

HB 187, by Representative Stewart: AN ACT relating to levying school taxes.

HB 188, by Representative Mann: AN ACT relating to alcoholic beverage control administration.

HB 189, by Representative Heleringer: AN ACT relating to the Veterans' Guardianship.

HB 190, by Representative Burch: AN ACT relating to thoroughbred racing.

HB 191, by Representatives Yates and Blevins: AN ACT relating to disposition of collateral by a secured party.

HB 192, by Representative J. Harper: AN ACT relating to filing dates.

HB 193, by K. Harper: AN ACT relating to motor vehicle taxation.

HB 194, by Representative T. Jones: AN ACT relating to traffic regulations.

HB 195, by Representative T. Jones: AN ACT relating to slow-moving vehicles.

HB 196, by Representatives Hines and Handy: AN ACT relating to licensing of health facilities.

HB 197, by Representative Hines: AN ACT relating to sales tax.

HB 198, by Representatives T. Jones and Hines: AN ACT relating to workers' compensation.

HB 199, by Representatives R. Jones and Cyrus: AN ACT relating to purchase of firearms by state employes.

HB 200, by R. Jones: AN ACT relating to the school term.

HB 201, by Representative R. Jones: AN ACT relating to solid waste management.

HB 202, by Representative R. Jones: AN ACT relating to the maximum debt of directors and officers to a bank or trust company.

HB 203, by Representative R. Jones: AN ACT relating to motor vehicle registration.

HR 10, by Representatives Stumbo, Blandford, Rapier, Turner and Worthington: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

HR 11, by Representatives Stumbo, Blandford, Donnermeyer, Rapier, Turner and Worthington: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HR 12, by Representatives Blandford, Stumbo, Donnermeyer, Worthington, Rapier and Turner: A RESOLUTION in memory of Representative Ray O. Brown.

HR 14, by Representative T. Jones: A RESOLUTION honoring former Representative Forest "Aggie" Sale.

Representative Stumbo moved that the rules be suspended to act upon HR 10 and HR 11. Agreed.

Representative Stumbo moved the adoption of the following HR 10:

HR 10, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open sessions thereof with prayer.

HR 10 was adopted by voice vote.

Representative Stumbo moved the adoption of the following HR 11:

HR 11, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform her that the General Assembly is prepared to receive any message she may care to deliver.

HR 11 was adopted by voice vote.

The Speaker announced the appointment of the following members to serve on the Committee to wait upon the Governor: Representatives Brinkley (Chairman), White and Hancock.

Representative Stumbo moved that the rules be suspended to act upon HR 12. Agreed.

Representative Stumbo moved the adoption of the following HR 12:

HR 12, A RESOLUTION in memory of Representative Ray O. Brown.

WHEREAS, Representative Ray O. Brown departed this life on December 29, 1985; and

WHEREAS, Representative Brown ably served the Commonwealth as representative of the 99th District from 1974 to the time of his death, most recently serving on the Judiciary-Civil, the Judicial-Criminal, and the Labor and Industry Committees, and the Task Force on Elections and Constitutional Amendments; and

WHEREAS, Ray Brown had previously held several other elective offices, including those of Elliot County Sheriff and Elliot County Judge/Executive; and

WHEREAS, Representative Brown was a beloved husband and father; and

WHEREAS, Representative Brown was a veteran of World War II, a member of the Hepbrun Lodge No. 576 in Sandy Hook and a member of El Hasa Shrine in Ashland;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its profound grief over the loss of this valued member and friend and extends its sympathy to his family.

Section 2. That when the House adjourns this day, January 7, 1986, it does so in memory of Ray O. Brown.

Section 3. That a copy of this resolution be sent to his wife, Frances Pritchard Brown.

HR 12 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of HR 12. Agreed.

On the roll call the vote was yeas 94—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative B. Richardson moved the adoption of the following Legislative Citation No. 1:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the Glasgow High School Band and your excellent director, JIM STUPPY. Your tireless efforts, great ambition and leadership proved most rewarding as your 115 member band was named "Grand Champion of the Kentucky State Fair." You have brought honor and pride to your school, community and the Commonwealth of Kentucky as you distinguished yourselves as the "Grand Champion of the George Rogers Clark Marching Contest," First place in the "Small Class Contest of Champions" and as you were named "Kentucky State Champion" in small class for the third year. You have earned an enviable reputation in receiving this most noteworthy and coveted title as "Kentucky Band of the Year."

This prestigious body salutes and applauds you for this great distinction, extending best wishes and much success in your future endeavors. (Sponsored by Representative B. Richardson)

Agreed.

Representative B. Richardson moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the Glasgow High School Band and your excellent director, JOHN SCALISE. Your tireless efforts, great ambition and leadership proved most rewarding as your 115 member band was named "Grand Champion of the Kentucky State Fair." You have brought honor and pride to your school, community and the Commonwealth of Kentucky as you distinguished yourselves as the "Grand Champion of the George Rogers Clark Marching Contest," First in the "Small Class Contest of Champions" and as you were named "Kentucky State Champion" in small class for the third year. You have earned an enviable reputation in receiving this most noteworthy and coveted title as "Kentucky Band of the Year."

This prestigious body salutes and applauds you for this great distinction, extending best wishes and much success in your future endeavors. (Sponsored by Representative B. Richardson)

Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills: Representative Blevins, HB 33; Representative L. Clark, HB 33, HB 142; Representative Gregory, HB 36, HB 109, HB 159; Representative Pritchett, HB 36, HB 109, HB 159.

Representative Donnermeyer announced a Majority Caucus, January 9, 1985, 30 minutes after adjournment, Room 109.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Committee appointed to wait upon the Governor reported the Governor was ready to address the Joint Session.

The Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Steven L. Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Reverend J. Williamson Brown, the Church of the Ascension, Frankfort.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort her to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Steven Beshear introduced the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky.

Governor Collins addressed the Joint Session of the General Assembly as follows:

GOVERNOR MARTHA LAYNE COLLINS

State of the Commonwealth Address

State Capitol

January 7, 1986

Our purpose tonight is to review the State of the Commonwealth. Our goal is to improve that condition. Our resolve is to succeed.

Sadly, we convene without a member of the General Assembly, Representative Ray Brown. For more than a decade the people of the 99th House District honored him with their confidence. He ably served his constituents, this Legislature, and the Commonwealth. We join his family and friends in mourning him. We pledge to remember him as we turn to the challenges of this session.

Tonight, the possibilities before us magnify our responsibilities. Kentucky has made a new beginning. In the past two years we have catapulted ourselves into a new age, an age of better jobs and better opportunities. There's a new pride and optimism in Kentucky, a renewed faith in our ability to chart a more prosperous course for ourselves, our children and our grandchildren. Along with that faith there's a deeper determination to make certain we get the job done.

Kentucky is poised for progress.

Like the first Kentucky settlers who crossed through the Cumberland Gap we too stand at the beginning of a new era. As we reflect on the past and look to the future the contrasts are as distinct as when those pioneers gazed eastward to an infant civilization and then westward to the frontier we call Kentucky. Like them, we proudly bring part of our past with us even as we look toward a new way of life.

We rely on the plow as we embrace the computer. We mine coal and stand in the vanguard of medicine. We preserve our tradition of handmade crafts and promote robotics.

Our farms, our coal mines remain vital to sustaining our progress. But we're strengthening and expanding our economic foundations. We're providing new opportunities to complement existing ones.

All across Kentucky we're looking ahead more confidently. Ahead we see a new prosperity. It's not just our people who sense this change. The world views Kentucky in a new light. That light focuses billiantly on our strengths, our assets, not, as so often in the past our weaknesses. The strengths—our people, our resources—have always been there. But the world has often overlooked them.

We've changed that. Today, people see a state on the move. They see a state looking to the future. They see a state that can compete with anyone in this age of high technology.

This General Assembly's foresight, your hard work, have allowed us to anticipate a brighter future. I thank you for your vision, your commitment, your willingness to invest in better lives for our people. You and I have proven that a key to real progress for our state is a spirit of cooperation, cooperation between the Legislature and the chief executive. We've worked together to benefit our citizens. We will continue to do so.

But the credit is not ours alone. It is the people of Kentucky who carry this state ahead. Without them, we could not have moved forward in education. Nor could we have achieved our unprecedented breakthroughs in economic development. Vital to these breakthroughs was the productivity of our citizens. That's not just the claim of a Governor proud of Kentuckians. Study after study ranks this state at the top in what the economists call "value added in manufacture." In plain talk that means Kentuckians work harder than other people. And when I sit down to talk to someone thinking about locating a plant in Kentucky that's one of our strongest selling points, our people, their potential.

So as you and I pursued the policies that moved Kentucky into a new era, our people supplied the support, the spirit, the willingness to pull together that moved us ahead so dramatically in the eyes of the world. Together we fashioned a resurgence of hope and belief in ourselves as a Commonwealth and in our ability to shape our destiny.

Yes, we're proud of our traditions. They preserve what is special about Kentucky. Yes, we're proud of our heritage. It inspires us to improve upon what our ancestors built. But we have freed ourselves from the burdens that have held us back in the past. We see broader horizons before us.

We've made a beginning, an impressive beginning. What the promise of this age demands in the months ahead—in the years ahead—is sustained commitment to build on the momentum we have created.

Our progress of the past two years points the way. We've focused on jobs. We've focused on education. In the last two years we've created 45,000 new jobs, a record, a figure that means better lives for tens of thousands of Kentucky families. We set our schools on a course toward a tradition of excellence. We signaled to the world that Kentucky was prepared to invest in the future of its people and that we were moving into a new age.

While Kentucky's long-term progress depends on advances in education and economic development other areas deserve our attention as well. Our needs of the moment, our hopes for the future have determined the focus of my agenda for the next two years.

One, I will ask you to fully fund the recent improvements in education. We will consolidate the progress of the past two years. We have focused on achievement in the classroom. We have increased accountability. Today, Kentuckians are more involved than ever before in their local schools. Today, our children are learning more. Today, we're seeing that better schools mean wider opportunities for all Kentuckians.

Two, I ask this General Assembly to submit to the people of Kentucky a proposed Constitutional Amendment making the Superintendent of Public Instruction an appointed rather than elective position. This would not cost the taypayers one dollar. Yet no other single action would more greatly benefit the education of our children.

The children of Kentucky must have continuity of leadership in education at the state level. They must have continuity in management of a complex department with complex ties to every school district. They must have continuity in a vision of how best to move our schools foward consistently—day after day, week after week, year after year.

Three, I will urge you to help Kentucky move ahead in higher education. To continue our success in bringing new and better jobs to Kentuckians this state must be capable of providing research and technical assistance required by the world's most sophisticated companies. We will guarantee that our universities have the capacity to provide this assistance, this leadership. We will see that our universities receive adequate funding. They must remain our partners in progress.

Four, we must make certain that Kentucky never again misses an opportunity to bring our people the jobs they deserve. I will request your support of initiatives in economic development that will brighten our prospects for attracting new investors from across America and around the world. I want to stress that while investors from outside Kentucky tend to receive the most publicity our existing business and industries are the backbone of the state's economy. We will never take them for granted. My administration will continue to work closely with them as they provide new, expanded opportunities for the men and women of Kentucky. We will also continue to aggressively promote other important sectors of our economy, coal and agriculture, because their well-being is essential to a strong Kentucky.

Five, I will call on you to help bring state spending for health care under control and to place Medicaid on a sound footing. Kentuckians will know without doubt or uncertainty what services they can depend on. And they will know they can count on those services today and in the future.

Six, I will seek your support in addressing the critical needs of our children. We know how crucial the early years are for enabling a child to reach full potential. Health, education, early childhood development, protective services—a wide range of programs will be strengthened to enable more young Kentuckians to make the most of their abilities. We can't look to the future without looking out for our children.

Seven, we will ensure public safety by strengthening our Corrections System. There is no more basic responsibility of state government than protecting its law-abiding citizens. We will fulfill this obligation by confronting the crisis in Corrections headon.

Eight, we will address basic capital needs for construction, maintenance and repair of state facilities. For too long the condition of these valuable investments—from parks to universities—has been neglected. It's time we gave them the attention they deserve.

Nine, we'll build on our efforts to strengthen Kentucky's fastest growing industry—Tourism. We are returning our state parks to their premier position as America's finest. And through stronger promotion we'll see that Kentucky successfully competes against other states for the tourism dollar. A growing tourism industry means more new jobs for Kentuckians.

Ten, I will ask your approval of a budget that responsibly allocates available dollars. It will target these dollars to areas that will guarantee the greatest return for our citizens. It will offer the incentives to fuel our drive further into this new economic era.

Tonight following tradition I have spoken mostly about Government. But the State of the Commonwealth lies not in the health of its government alone. A true picture portrays the virtues and vitality of our people, their faith, their hopes, their dreams, their achievements.

In this regard the State of the Commonwealth is uncommonly good. The talents, the resourcefulness and the determination of our citizens provide the means of our progress.

We have many, many reasons to be proud. The eyes of the nation and the world turned to Kentucky when Dr. William DeVries of the Humana Heart Institute successfully implanted an artificial heart. They again looked to Kentucky when America's two presidential candidates came to our magnificent Kentucky Center for the Arts for an historic debate. The Bluegrass was showcased when the NCAA Final Four came to Lexington. We watched with pride as the President presented our own Shirleen Sisney as America's Teacher of the Year. And when he recognized Greg Johnson of Paducah as a Presidential Scholar. Time and again we've seen Kentuckians excel. Louisville's Mary T. Meagher swam for the gold in the 1984 Olympics. Lafayette High School's academic team, competing against 600 teams from all over America, placed number one in the nation. Appalachian Computer Services, a high-tech industry that has provided hundreds of new jobs in London, Berea and Beattyville, has become one of the premier small businesses in the Southeastern United States. I could go on and on.

Tonight, we have with us several of the people I've mentioned, and I'd like to recognize them as testimony to what Kentucky is and to what we can become.

Dr. DeVries is with us. Shirleen Sisney. Chris Mullins, captain of the Lafayette Academic Team. Ken James, president of Appalachian Computer Services. Greg Johnson.

With Greg is his mother, Rochelle Johnson. Mrs. Johnson is a single parent who has raised an extraordinary family—working at two jobs to do it. Greg, in addition to being a presidential scholar, won a prestigious scholarship to Brown University, where he made straight A's this past semester. Her daughter Barbara is a graduate of the University of Kentucky and works with troubled young people. Another son, Earl, is studying to be a chemist and works with disadvantaged children. Her youngest son, Brad, is a senior in high school, was a Governor's Scholar this past summer and has been nominated to West Point by Senator Wendell Ford. Mrs. Johnson, that's a family we can all be proud of.

The accomplishments of all these people bring to mind the independent spirit of the men and women who settled the frontier that was Kentucky. People like Mrs. Johnson, the farmer in Trigg County, the coal miner in Knott County, the steel worker in Ashland, the men and women on the assembly line in Louisville, the teacher in Kenton County, the auto worker in Bowling Green—they excel every day. They make Kentucky work.

And today, people everywhere know Kentucky is a state to be reckoned with. They see a state not content to match the pace, but determined to set the pace.

This place, this Chamber, and the Senate bear a special relationship to every corner of Kentucky. Here are represented the hopes, the ideas, the dreams of our people. Here our history is charted. Here opportunity meets responsibility.

We have the opportunity—unprecedented opportunity—for seizing control of Kentucky's future. We have the responsibility to fulfill our obligations to our people.

We have made a beginning. We have begun a journey into the future. We will reach our destination when every Kentuckian has the opportunity for a job that will allow them to build a better life for their family; when every child has the opportunity for an education worthy of their hopes and dreams; when every young man and woman has the opportunity to fulfill their ambitions here in Kentucky. We are not yet there. But we have made a beginning.

We are poised for progress.

There is the promise of a brighter future. The challenge to you and me and to future leaders is to meet this promise with the strength of leadership that will lift Kentucky to its full potential in this new age.

I should like it said of the last two years that because Kentuckians pulled together the challenges of the times met their match. I should like it said of the next two years that because we redoubled our efforts these challenges met their master.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 8, 1986.

On the roll call the vote was yeas 97—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates. Nays 2—Clarke, Maggard.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 8, 1986

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Jim Roberts, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Heleringer and Smith.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 7, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 204, by Representative Burnette: AN ACT relating to grain.

HB 205, by Representative Mack: AN ACT relating to personal needs allowances.

HB 206, by Representative Mack: AN ACT relating to senior citizen discounts.

HB 207, by Representative White: AN ACT relating to coal mining.

HB 208, by Representative Moberly: AN ACT relating to motor vehicle registration.

HB 209, by Representative Moberly: AN ACT relating to the Kentucky distinguished student recognition and scholarship award program

HB 210, by Representative Moberly: AN ACT relating to class size.

HB 211, by Representative Moberly: AN ACT relating to general principles of liability for criminal offenses.

HB 212, by Representative Guenthner: AN ACT making an appropriation to the Kentucky Center for the Arts Corporation.

HB 213, by Representatives P. Richardson and Stumbo: AN ACT relating to reorganization.

HB 214, by Representative Stumbo: AN ACT relating to reorganization.

HB 215, by Representative Stumbo: AN ACT relating to reorganization of the Justice Cabinet.

HB 216, by Representative Long: AN ACT relating to fees for services provided by the Cabinet for Human Resources.

HB 217, by Representative Burch: AN ACT relating to the dissolution of cities.

HB 218, by Representatives Rose and Stumbo: AN ACT relating to reorganization.

HB 219, by Representatives LeMaster and Holbrook: AN ACT relating to public school sports medicine programs and making an appropriation therefor.

HB 220, by Representative Yates: AN ACT relating to boiler safety.

HB 221, by Representatives McBee and Stumbo: AN ACT relating to reorganization.

HB 222, by Representatives Lyne and Stumbo: AN ACT relating to reorganization.

HB 223, by Representatives Lyne and Stumbo: AN ACT relating to the governor's council on vocational education.

HB 224, by Representatives Bendl, Mack, Bennett, Priddy, Moberly, Hines, Handy, Long, O'Brien, Clarke, T. Jones, L. Clark, Scorsone, Seum, and P. Clark: AN ACT relating to health care.

HB 225, by Representative Guenthner: AN ACT relating to day care centers and foster homes serving minors.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 63, HB 64, HB 98, HB 127, HB 144, HB 149, HB 150, HB 151, HB 163.

Appropriations and Revenue: HB 96, HB 109, HB 116, HB 119, HB 130, HB 145, HB 171, HB 179, HB 187, HB 193, HB 197, HB 55, HB 165.

Banking and Insurance: HB 135, HB 155, HB 162, HB 174, HB 182, HB 183, HB 184, HB 185, HB 186, HB 191, HB 202.

Business Organizations and Professions: HB 2, HB 6, HB 34, HB 37, HB 44, HB 143, HB 146, HB 188, HB 190.

Cities: HCR 6, HB 4, HB 42, HB 54, HB 66, HB 69, HB 122, HB 147, HB 181.

Counties and Special Districts: HCR 3, HB 3, HB 10, HB 11, HB 43, HB 81, HB 139, HB 140, HB 142, HB 14.

Education: HB 18, HB 19, HB 21, HB 22, HB 23, HB 24, HB 26, HB 28, HB 40, HB 59, HB 83, HB 105, HB 159, HB 160, HB 169, HB 180, HB 200, HB 125.

Energy: HCR 9, HB 90, HB 91, HB 92, HB 93, HB 107, HB 136, HB 161.

Health and Welfare: HJR 1, HCR 7, HB 5, HB 20, HB 29, HB 41, HB 52, HB 53, HB 56, HB 57, HB 78, HB 80, HB 178, HB 196, HB 25.

Judiciary-Civil: HB 49, HB 82, HB 84, HB 85, HB 88, HB 115, HB 120, HB 138, HB 148, HB 154, HB 164, HB 189.

Judiciary-Criminal: HB 9, HB 12, HB 17, HB 39, HB 51, HB 71, HB 72, HB 73, HB 74, HB 76, HB 77.

Labor and Industry: HB 89, HB 117, HB 132, HB 137, HB 175, HB 198.

Natural Resources and Environment: HCR 5, HB 62, HB 65, HB 94, HB 95, HB 99, HB 104, HB 108, HB 112, HB 118, HB 121, HB 152, HB 201, HB 33, HB 114.

State Government: HB 1, HB 7, HB 8, HB 27, HB 46, HB 58, HB 60, HB 61, HB 67, HB 68, HB 70, HB 75, HB 79, HB 86, HB 87, HB 97, HB 100, HB 101, HB 102, HB 103, HB 106, HB 110, HB 111, HB 113, HB 123, HB 124, HB 128, HB 129, HB 131, HB 133, HB 134, HB 141, HB 156, HB 157, HB 158, HB 166, HB 170, HB 172, HB 176, HB 177, HB 192, HB 199, HB 30, HB 35, HB 50, HCR 4.

Transportation: HB 13, HB 15, HB 16, HB 31, HB 32, HB 36, HB 38, HB 45, HB 47, HB 48, HB 126, HB 153, HB 167, HB 168, HB 173, HB 194, HB 195, HB 203.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to allow the waiving of the three-day posting requirement through Friday, January 10, 1986, by the Committee Chairmen upon request of the bill sponsors. Agreed.

Representative Stumbo moved that the rules be suspended to act upon HR 14. Agreed.

Representative Stumbo moved that the rules be suspended in order to amend HR 14 on page 2, line 4, by changing "January 7," to "January 8,". Agreed.

Representative Stumbo moved the adoption of the following HR 14:

HR 14, A RESOLUTION honoring former representative Forest "Aggie" Sale.

WHEREAS, Forest "Aggie" Sale ably served five terms in the Kentucky House of Representatives, 1972-1980; and

WHEREAS, prior to his legislative service, Forest Sale had a long and successful career as history teacher and basketball coach at Harrodsburg High School; and

WHEREAS, the education of Kentucky youth was one of Representative Sale's primary legislative interests; and

WHEREAS, Forest Sale's college years were distinguished by his national recognition as a basketball standout—as an All-American in the 1931-32 and 1932-33 seasons, and as the Helms Athletic Foundation's Player of the Year for 1933; and

WHEREAS, Coach Adolph Rupp referred to "Aggie" Sale as the "best player I ever coached"; and

WHEREAS, "Aggie" Sale was enshrined in the Kentucky Sports Hall of Fame in 1957 and in the Kentucky High School Basketball Hall of Fame in 1967;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does express its profound bereavement upon the loss of this dear colleague and extend its sympathy to Mrs. Elizabeth Sale and Ms. Betsy Sale.

Section 2. That when the House adjourns this day, January 8, 1986, it does so in honor and memory of Forest "Aggie" Sale.

Section 3. That a copy of this resolution be sent to Mrs. Elizabeth Sale.

HR 14 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of HR 14. Agreed.

The following members requested that their names be added as co-sponsors of HR 14: 91 yeas—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, J. Harper, Head, Hines, Holbrook, Holloway, Jensen, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 226, by Representative Clarke: AN ACT relating to the determination of death.

HB 227, by Representative Johnson: AN ACT relating to assignment of child support payments.

HB 228, by Representatives M. Brown and Stumbo: AN ACT relating to reorganization.

HB 229, by Representatives Gedling, Stumbo, P. Clark, and Kerr: AN ACT relating to reorganization.

HB 230, by Representative Clapp: AN ACT relating to forestry.

Posting of Bills and Resolutions for Consideration.

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: HCR 5, HB 62, HB 65, HB 94, HB 95, HB 99, HB 104, HB 108, HB 112, HB 118, HB 121, HB 152, HB 201, HB 33, HB 114.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to be added as co-sponsors as follows: Representative Burch, HR 12; Representative Hancock, HR 12; Representative Donnermeyer, HB 150; Representative Ford, HB 105; Representative Holbrook, HB 1; Representative Keith, HB 24; Representative LeMaster, HB 44; Representative McNutt, HB 31; Representative Meyer, HB 12, HB 71, HB 72, HB 74; Representative Napier, HB 109, HB 159; Representative Richards, HB 1.

Announcements

Representative Bennett announced a meeting of the Committee on Labor, joint meeting with the Senate, on January 15, 1986, at 12 noon, Room 106.

Representative Deskins announced a meeting of the Committee on Natural Resources and Environment, Thursday, January 9, 1986, 8:30 a.m., Room 104.

Representative Mann announced a meeting of the Committee on Energy, Thursday, January 9, 1986, 12 noon, Room 103.

Representative Burch announced a meeting of the Committee on Health and Welfare, Thursday, January 9, 1986, 12 noon, Room 109.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m, Thursday, January 9, 1986.

On the roll call the vote was yeas 73—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, M. Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lyne, Mack, Mann, McBee, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Stewart, Stone, Stumbo, Thomas, Todd, Yates. Nays 10—Bronger, Deskins, Ford, Guenthner, Holbrook, LeMaster, Lile, Maggard, Overstreet, Seum.

The motion to adjourn was adopted.

THURSDAY, JANUARY 9, 1986

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and Smith.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the Journal of January 8, 1986, be corrected to reflect Representative Stumbo's motion was that the rules be suspended through Friday, January 10, 1986 for the purpose of allowing the committee chairmen to waive the three-day posting requirement for consideration of legislation favorably reported by an interim committee. Agreed.

Representative Brinkley moved that the reading of the Journal of January 8, 1986, as corrected, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 231, by Representative Pearman: AN ACT relating to marriage.

HB 232, by Representative Brinkley: AN ACT relating to the school term.

HB 233, by Representative Yates: AN ACT relating to thoroughbred horse sales.

HB 234, by Representative Brinkley: AN ACT relating to usage of atmospheric fluidized bed combustion technology.

HB 235, by Representatives Blevins and Stumbo: AN ACT relating to reorganization.

HB 236, by Representative Johnson: AN ACT relating to judicial compensation.

HR 15, by Representatives Farrow, Morris and Bruce: A RESOLUTION in memory of those members of the 101st Airborne Division who died in an airplane disaster in Newfoundland.

HJR 16, by Representatives Blandford, Stumbo, Farrow, Worthington, Rapier and Donnermeyer: A JOINT RESOLUTION pledging to enact legislative measures during the 1986 Session to develop, staff, fund, support and maintain the programs and incentives pledged to the Toyota Motor Corporation in return for its commitment to the economic development of the Commonwealth.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 204.

Appropriations and Revenue: HB 212.

Cities: HB 217.

Education: HB 209, HB 210, HB 219.

Health and Welfare: HB 205, HB 224, HB 225.

Judiciary-Civil: HB 226, HB 227.

Judiciary-Criminal: HB 211, HB 216.

Labor and Industry: HB 220.

Natural Resources and Environment: HB 207, HB 230.

State Government: HB 206, HB 213, HB 214, HB 215, HB 218, HB 221, HB 222, HB 223, HB 228, HB 229.

Transportation: HB 208.

Report of Committees

The Committee on Energy reported HCR 9 with Committee Amendment attached thereto, HB 136, and HB 161 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 9, A CONCURRENT RESOLUTION establishing a Low-Income Energy Task Force.

WHEREAS, there are many low-income households in this state which cannot afford to pay for adequate heat; and

WHEREAS, the only statewide energy assistance program, the Low-Income Home Energy Assistance block grant, has historically only been able to meet between thirty percent to fifty percent of the need; and

WHEREAS, the only statewide weatherization program has identified over 250,000 households which qualify and need weatherization services; and

WHEREAS, there are at least seven states which have either adopted or are considering adoption of a guaranteed service plan whereby utility customers who cannot pay their full bill are assured continued service if they pay a portion of that bill, based on income; and

WHEREAS, the reports on the experience of those states adopting guaranteed service plans which should be available soon could provide useful information to this state; and

WHEREAS, for six months a subcommittee of the Interim Joint Committee on Energy considered alternatives to the way this state addresses energy assistance, but concluded that significant changes should not be made without further study and the expertise of the various entities in the state which deal with energy assistance daily;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a Low-Income Energy Task Force. The task force shall consist of membership from both houses of the legislature, which shall choose from among its membership a chairperson and vice-chairperson, by mutual agreement. In addition, the Legislative Research Commission shall appoint to the task force representatives from utilities and low-income advocacy groups; the agency head or designee from the Kentucky Public Service Commission, the Kentucky Energy Cabinet, the Kentucky Department for Social Insurance, the Kentucky Department for Employment Services, and the Kentucky Association for Community Action; and such other members as the Commission desires. However, the total membership of the task force shall not exceed fifteen members.

Section 2. The task force shall examine all aspects of energy assistance for low-income households and make recommendations to the Legislative Research Commission on how energy assistance in the state could be made more efficient and more effective. The task force shall consider current Public Service Commission regulations, state weatherization and energy assistance programs, guaranteed service plans, and conservation incentives for those receiving energy assistance. The task force shall meet at least quarterly and shall report its findings and recommendations to the Legislative Research Commission no later than January 1, 1988.

Section 3. The task force may engage, if necessary, the services of professional consultants, the cost of such services not to exceed $20,000, subject to approval by the Legislative Research Commission. The members of the task force shall be reimbursed for their expenses in attending meetings. It is estimated that the operation of the task force and the provision of staff services, excluding any consultant fees, will cost approximately $20,000. Staff services are to be provided by the Legislative Research Commission from its regular budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 to HCR 9 is as follows:

Amend printed copy of HCR 9:

on page 2, line 8 after the word "utilities," by adding the following:

", non-utility fuel providers,"

and on page 2, line 12 after the word "Services," by adding the following:

"the Utility and Rate Intervention Division of the Kentucky Office of the Attorney General,"

HB 136, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act, a "superinsulated house" means a newly constructed or renovated single or multi-family building that serves as living quarters and meets energy-efficiency standards designed to drastically reduce the amount of energy required for heating and cooling. The expected heating requirements for a superinsulated house shall not exceed three (3) British thermal units (BTU) per square foot of floor space per heating degree day. It combines air-tight construction with high and efficient levels of insulation, and typically includes controlled ventilation, and high efficiency heating, ventilation and air conditioning equipment.

(1) "Air-tight construction" refers to house construction techniques designed to seal against air leaks. It is measured by the rate of air infiltration, the rate at which indoor air is replaced by outdoor air due to leakage.

(2) "Insulation" refers to materials with thermal properties which enable them to resist or slow down the rate of heat transfer through the material.

(3) "Controlled ventilation" refers to a mechanical means of providing a minimum rate of air exchange within a house.

(4) "High efficiency heating, ventilation and air conditioning equipment" is equipment which requires significally less energy input per unit of output than conventional equipment used in the last twenty-five (25) years.

(5) "Renovation" is a substantial reconstruction of an existing house, representing an expenditure of at least five thousand dollars ($5,000) for measures to increase the energy efficiency of the house.

(6) "Heating degree day" is a unit of measurement for outside temperature during the heating season, calculated by subtracting the average temperature for the day from sixty-five (65) degrees fahrenheit.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount of one thousand five hundred dollars ($1,500) for a superinsulated house constructed or renovated on property in Kentucky which is owned or controlled by the taxpayer. The credit which may be claimed by any taxpayer shall be one thousand five hundred dollars ($1,500) during the period specified in subsection (13) of this section. In no case shall a house be eligible more than once for the credit provided in this section.

(2) A builder who builds a superinsulated house or renovates a house to meet standards of superinsulation for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. In no case, however, shall the credit be claimed by both the builder and the purchaser.

(3) The credit in this section may be claimed only for the taxable year in which the superinsulated house is completed, except that a claim by the purchaser for a house built or renovated for resale shall be for the taxable year in which the house is purchased. In addition, no construction or renovation started before July 1, 1986 shall qualify for the tax credit.

(4) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed one thousand five hundred dollars ($1,500).

(5) In the case of a partnership, of which one (1) or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocatd in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed one thousand five hundred dollars ($1,500).

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) No superinsulated house for which the credit is claimed, nor any portion of or installation connected to said house, shall qualify for an energy property credit under KRS 141.380.

(8) Before any tax credit can be claimed under the provisions of this section the energy cabinet must certify that the taxpayer's house is a superinsulated house and documentation must be provided that the house has been completed. Any fee charged by the energy cabinet shall reflect the energy cabinet's costs in certifying a house under this section.

(9) The energy cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy efficiency standards, to effectively conform to the definition of a superinsulated house in Section 1 of this Act and to administer the certification requirements in this section. The regulations (including those describing the application procedure) shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the energy cabinet by this section, the revenue cabinet may promulgate such rules and regulations as necessary to effectively administer the requirements of this Act.

(11) All regulations necessary to implement this Act shall be filed with the legislative research commission in accordance with KRS Chapter 13A by September 1, 1986.

(12) The revenue cabinet shall report as to the impact of this Act to the 1988 General Assembly and to the appropriate interim committee preceding the 1988 General Assembly. Such report shall include the number and amount of the superinsulated house credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commowealth attributable to the credits, and such other information as the revenue cabinet deems pertinent to an analysis of this Act.

(13) The provisions of this Act shall apply to the taxable years beginning on or after January 1, 1986, ending on or before December 31, 1988, and no credit shall be allowed for any taxable year ending after December 31, 1988.

HB 161, AN ACT relating to energy assistance and conservation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the treasury of the Commonwealth a trust fund to be known as the "energy assistance and conservation fund" herein referred to as the "fund."

(2) The fund shall consist of any gifts, donations, contributions, bequests of money or securities made to the fund; any sums which become available as a result of a voluntary check-off and contribution of state tax refunds on personal income tax returns as provided for in Section 3 of this Act; any oil overcharge refunds which become available to the Commonwealth as a result of any settlements of litigation brought by the United

States department of energy for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect; and any investment interest earned on the excess cash in the fund. All moneys in excess of the amount required to meet current expenses shall be invested in interest-bearing accounts and accrue to this fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The moneys in the fund shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet.

(2) The secretary of the finance and administration cabinet shall manage the fund with the following stipulations:

(a) Seventy-five percent (75%) of any oil overcharge refunds received into the fund and any investment interest earned on such refunds shall be designated for and made available as needed to the cabinet for human resources for supplementary funding of the low-income home energy assistance program and the weatherization program;

(b) Twenty-five percent (25%) of any oil overcharge refunds received into the fund and any investment interest earned on such refunds shall be designated for and made available as needed to the energy cabinet for supplemental funding of the state energy conservation program, the energy extension service, and the institutional building grants program; and

(c) All funds, other than oil overcharge refunds, received into the account shall be annually remitted January 1 to the cabinet for human resources to be used to assist households in an energy crisis situation under the low-income home energy assistance program.

(3) The secretary of the finance and administration cabinet shall submit to the legislative research commission on January 1 of each year a report on the operational and financial status of the fund and shall include in such report a summary of how the cabinet for human resources and the energy cabinet dispensed moneys received from the fund during the previous year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the energy assistance and conservation fund established in Section 1 of this Act may designate an amount, not to exceed the amount of the refund, to be made to such program. In the case of a joint return, each spouse may also designate that a portion of the refund shall be paid to said fund.

(2) The designation for contributions to the energy assistance and conservation fund shall appear on the face of the income tax return form.

(3) Any contributions made to the fund through the voluntary check-off shall be disbursed to the cabinet for human resources for energy assistance as set out in Section 2(1)(c) of this Act. The cabinet for human resources may engage in activities to promote the fund.

The Committee Amendment No. 1 to HB 161 is as follows:

Amend printed copy of HB 161:

on page 2, after line 26 by adding a new subsection to read as follows:

"*(3) The secretary of the finance and administration cabinet shall submit to both the energy cabinet and the cabinet for human resources quarterly status reports on the fund.*"

and on page 3, line 1, by striking "*(3)* and inserting in lieu thereof "*(4)*.

The Committee on Natural Resources and Environment reported HB 62, HB 65, and HB 118 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 62, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist;[~~,~~] making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in [~~those~~] gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay *including any overland coal belts*; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal or clay mine, *including any overland coal belts,* at any reasonable time.

HB 65, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

All liens, except liens for reclamation as provided by KRS 350.575, which may arise or be asserted based on materials, labor and supplies furnished in conjunction with reclamation contracts, except surface owner bond forfeiture reclamation contracts as provided by KRS 350.130(2), are legally deemed to be, and shall be enforceable as, liens against public projects involving improvement to state owned property. Such liens shall arise, be perfected, and be enforced in the manner and to the extent provided for public property improvement liens contained in KRS 376.210 to 376.260, as may be amended from time to time.

HB 118, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The owners or operators of hazardous waste treatment, storage, and disposal facilities shall, on a monthly basis, provide the county/judge executive of the county or urban county government where the facility is located with copies of all hazardous waste manifests received by the facility.

Posting of Bills and Resolutions for Consideration

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: HB 23, HB 26, HB 40, HB 125.

Transportation: HB 13, HB 36, HB 45, HB 47, HB 48.

Counties and Special Districts: HB 3, HB 11.

Appropriations and Revenue: HB 109, HB 116, HB 165, HB 179.

Agriculture and Small Business: HB 63, HB 127, HB 144.

State Government: HB 7, HB 35, HB 58, HB 68.

Motions, Petitions, and Communications

Representative Farrow moved that a call of the roll be taken to show co-sponsors of HR 15. Agreed.

On the roll call the vote was yeas 93—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative Farrow moved the adoption of the following HR 15:

HR 15, A RESOLUTION in memory of those members of the 101st Airborne Division who died in an airplane disaster in Newfoundland.

WHEREAS, a tragic plane crash of December 12, 1985, took the lives of two hundred and forty-eight Fort Campbell soldiers; and

WHEREAS, these brave and patriotic members of the 101st Airborne Division had been returning from a five-month tour of duty as part of a multi-national peacekeeping force in the Sinai; and

WHEREAS, our President has assured the families of these lost servicemen and servicewomen that they "do not grieve alone," that "we grieve as a nation"; and

WHEREAS, in the words of Army Chief of Staff General John A. Wickham, "the magnificent soldiers we mourn were obedient to their duty and selfless in their service to our nation";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its profound sense of grief over the losses of these brave young Americans.

Section 2. That when the House adjourns this day, January 9, 1986, it does so in honor of these men and women of the 101st Airborne.

Section 3. That a copy of this resolution be sent to the Commander of Fort Campbell, Major General Burton D. Patrick.

HR 15 was adopted by voice vote.

Representative Gedling moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gedling moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Huston DeHaven, Superintendent of the Breckinridge County Schools, as you were named to the "Executive One-Hundred" by the *Executive Educator Magazine* in Virginia for being an outstanding educator. Your numerous contributions in education for the past twenty years are exemplary of your dedication and hard work. As an educator you have influenced thousands of young people and have shared generously of your knowledge, time, resources and experiences for which we are sincerely grateful.

This honorable body applauds your superb professionalism and the distinction you have bestowed on your community and the Commonwealth of Kentucky. (Sponsored by Representative Gedling)

Agreed.

Representative Long moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion the passing of the late Roger "Bill" Bailey, Magistrate of Bagdad and Cropper District No. IV. His leadership and years of unselfish dedication to public service were exemplified by his accomplishments and significant contributions to the success of the Shelby County Fiscal Court.

This prestigious body extends sincere sympathy to the family, friends, and the Shelby County Community in the untimely death of "Esquire Bailey." (Sponsored by Representative Long)

Agreed.

Representative Johnson moved that HB 154 be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Johnson moved that HB 120 be reassigned to the Committee on Cities. Agreed.

Representative Heleringer moved that HB 129 be withdrawn.

Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 237, by Representatives Kerr and Stumbo: AN ACT relating to the reorganization of the Higher Education Assistance Authority.

HB 238, by Representatives Kerr, Gedling, Blevins and Napier: AN ACT relating to child abuse.

HB 239, by Representatives Kerr, Stumbo, Gedling and P. Clark: AN ACT relating to reorganization.

HB 240, by Representatives R. Jones and Richards: AN ACT relating to boards of education.

HB 241, by Representatives Noe and Barrows: AN ACT relating to exceptional children.

HB 242, by Representatives Bennett and Pearman: AN ACT relating to sales and use tax.

HB 243, by Representatives R. Jones and Gray: AN ACT relating to crimes and punishments.

HB 244, by Representative Heleringer: AN ACT relating to motor vehicle registration.

HB 245, by Representative Pearman: AN ACT relating to property valuation administrators.

HB 246, by Representative Holbrook: AN ACT relating to mortgages on real estate.

HB 247, by Representative Donnermeyer: AN ACT relating to the disposition of fines.

HB 248, by Representative Donnermeyer: AN ACT relating to dogs.

HR 17, by Representatives Heleringer and Guenthner: A RESOLUTION honoring the Trinity High School Shamrocks and head football coach Dennis Lampley.

Report of Committees

The Committee on Health and Welfare reported HB 20, with Committee Amendment attached thereto, and HJR 1, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Boarding home" means any home, facility, institution, lodging or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board or any hotel as defined in KRS 219.011(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a boarding home without registering, on an annual basis, with the county or district health department for the county in which such boarding home is located and receiving a permit from said health department to operate a boarding home. A permit fee in an amount to be established by regulation of the cabinet for human resources shall be paid to the county or district health department at the time of registration. Before granting a permit to any person applying for a permit to operate a boarding home, the health department shall within thirty (30) days after such application make or cause to be made, an inspection by a health environmentalist of the local or district health department to determine whether safe and sanitary conditions exist in the boarding home in compliance with regulations as developed by the cabinet for human resources. A permit granted by a health department may be revoked at any time if it is determined upon inspection by the health department that conditions in the boarding home are unsafe, unsanitary or out of compliance with regulations of the cabinet for human resources. Such permit shall only be revoked after notice to the person operating the boarding home and after an opportunity for a hearing, as provided by regulations of the cabinet for human resources. The permit to operate a boarding home shall expire annually on December 31, at which time a permit renewal fee in an amount to be established by regulation of the cabinet for human resources shall be required.

(2) Any person who operates a boarding home without registering and receiving a permit to do so, as required by subsection (1) of this section, or who falsely registers a boarding home shall be guilty of a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Upon receipt of a complaint, the division of licensing and regulation of the cabinet for human resources is authorized to enter a boarding home to determine if the boarding home is operating as a long-term care facility as defined in KRS 216.535.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

On a monthly basis, each county or district health department in the Commonwealth shall submit to the cabinet for human resources and the local agencies having jurisdiction for the enforcement of fire, safety and *building codes a list of newly registered boarding homes in the county or district which have been granted permits. Such list shall provide at least the following:*

(1) The name and address of the operator of the home;

(2) The name and address of the owner of the home, if different; and

(3) The compliance status of the home with pertinent laws and regulations.

The cabinet for human resources shall maintain a cumulative list which shall be updated on at least a quarterly basis.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as requiring registration by and the granting of a permit to persons providing room or board or both to students attending institutions of higher education.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to any boarding home operated or regulated by the federal government.

The Committee Amendment No. 1 to HB 20 is as follows:

Amend printed copy of HB 20:

On page 3, lines 5 through 9,

by deleting after the word "*complaint*" the rest of the sentence from ", *the*" through the number "*KRS 216.535.*" and by inserting in lieu thereof the following:

> "*related to the operation of a boarding home, the appropriate regulatory agency shall investigate and take corrective action as indicated.*"

And on line 19,

by inserting after the word "*home;*" the word "*and*"

And on line 21,

by deleting the word "*; and*" and inserting in lieu thereof a "."

And on lines 22 and 23,

by deleting subsection (3) in its entirety.

HJR 1, A JOINT RESOLUTION directing the expansion of spouse abuse shelters within the Commonwealth.

WHEREAS, nationally 6 million women and 282,000 men are annually beaten by their spouses; and

WHEREAS, 2-4,000 women are annually beaten to death by husbands or boyfriends; and

WHEREAS, surveys show that 43 percent of victimized wives turn to no one for help and 25 percent of women committing suicide had a prior history of being battered; and

WHEREAS, a Lou Harris poll found that 25 percent of abused victims would have welcomed emergency shelter but only 2 percent received it; and of 30 percent of the victims who would have liked to receive counseling, only 5 percent received it; and

WHEREAS, spouse abuse shelters are not available in all regions of the Commonwealth, and further, existing shelters daily turn away victims who ask for help;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Cabinet for Human Resources is directed to request from the 1986 Kentucky General Assembly sufficient funds for the 1986-88 Biennium to expand the following three spouse abuse shelters in the Commonwealth: one located in Newport; one located in Lexington; and one located in Louisville.

Section 2. Funds for the expansion of the spouse abuse shelters may be made available under the general fund of the Commonwealth, or under the spouse abuse trust fund as set forth under KRS 209.160, or under both.

The Committee Amendment No. 1 to HJR 1 is as follows:

Amend printed copy of HJR 1:

On page 2, line 1,

By deleting the words "the following three" and inserting in lieu thereof the word "all";

And on line 2,

By deleting the following: ":one located in Newport; one located in";

And on line 3,

By deleting the following: "Lexington; and one located in Louisville".

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 105**; Representative Brinkley, **HB 30**; Representative Burch, **HB 19**; Representative Dawahare, **HB 109**, **HB 159**; Representative Ellington, **HB 109**; Representative Farrow, **HB 109**; Representative K. Harper, **HB 45**, **HB 53**; Representative McNutt, **HB 41**, **HB 162**; Representative Siler, **HB 19**; Representative Stone, **HB 109**; Representative Thomas, **HB 136**, **HB 161**, **HCR 9**; Representative Turner, **HB 126**, Representative White, **HB 96**; Representative Williams, **HB 19**.

Announcements

The following meetings were announced:

Majority caucus, 30 minutes after adjournment, Room 109.

Committee on State Government, Friday, January 10, 1986, 9:00 a.m., Room, 109.

Committee on Judiciary-Civil, Friday, January 10, 1986, 8:30 a.m., Room 104.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 10, 1986.

On the roll call the vote was yeas 79—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Farrow, Freibert, Gray, Gregory, Guenthner, J. Harper, K. Harper, Head, Hines, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 5—Heleringer, Holbrook, Overstreet, Scum, Williams.

The motion to adjourn was adopted.

FRIDAY, JANUARY 10, 1986

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Guenthner, R. Jones and Smith.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 9, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 249, by Representatives Gedling and Rose: AN ACT relating to the auditing of county clerks and making an appropriation therefor.

HB 250, by Representative Burnette: AN ACT relating to individual income tax.

HB 251, by Representative Burnette: AN ACT relating to selling of farm real estate.

HB 252, by Representative Burnette: AN ACT relating to a moratorium on farm real estate foreclosures.

HB 253, by Representative Morris: AN ACT relating to insurance.

HB 254, by Representative Burnette: AN ACT relating to a linked deposits loan program.

HR 18, by Representative Rapier: A RESOLUTION designating the Bloomfield Tobacco Festival as the official Kentucky Tobacco Festival.

HR 19, by Representatives Lyne and Stumbo: A RESOLUTION extending an invitation to Dr. Oddvar Berg to open a session of the House with prayer, and to present his remarks on "What it Means to be an American."

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 242, HB 245, HB 247, HJR 16.

Banking and Insurance: HB 246.

Business Organizations and Professions: HB 233.

Counties and Special Districts: HB 248.

Education: HB 232, HB 241.

Energy: HB 234.

Judiciary-Civil: HB 231, HB 236, HB 238, HB 240.

Judiciary-Criminal: HB 243.

State Government: HB 235, HB 237, HB 239.

Transportation: HB 244.

Report of Committees

The Committee on Judiciary-Criminal reported HB 72 and HB 74 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 72, AN ACT relating to prisons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Secretary" means the secretary of the corrections cabinet;

(2) "Institution" means any institution under the control of the cabinet;

(3) "Correctional facilities" means all institutions, local jails and community correctional centers as defined in KRS 439.580;

(4) "Prisoner" means every person who, at the time of the declaration of a correctional facilities overcrowding state of emergency or at any time during the continuation of a state of emergency, is serving a criminal sentence under commitment to the cabinet, including persons backed up in local jails and prisoners in community correctional facilities;

(5) "Sentence reduced" means the sentence of the court is reduced to time served;

(6) "Qualified prisoner" means prisoners presently committed to the jurisdiction of the cabinet with sentences of five (5) years or less excluding those with nonrestorable good time and those under a conviction for an offense against a person and who meet the criteria established by the corrections cabinet in administrative regulations;

(7) "Operational capacity" means the safe and reasonable inmate capacity of correctional facilities used by the cabinet based on American correctional association standards; and

(8) "State of emergency" means a correctional facilities overcrowding state of emergency as provided in subsection (5) of Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days of the effective date of this Act, the secretary shall submit to the governor, for his approval, a determination of the operational capacity of all correctional facilities. Upon the governor's approval, the secretary's determination shall constitute operational capacity as defined in Section 1 of this Act.

(2) If the total operational capacity in all correctional facilities increases or decreases by more than fifty (50) spaces from the total operational capacity previously established under subsection (1) of this section, the secretary shall act within twenty (20) days of that increase or decrease according to the procedures set forth in subsection (1) of this section to establish a revised operational capacity.

(3) The secretary may request that the governor declare a state of emergency within the state's correctional facilities whenever the secretary certifies in writing and provides documentation that the total prisoner population of the state's correctional facilities has exceeded the current total operational capacity by ten percent (10%). The secretary shall include in his written report to the governor:

(a) That the request for a declaration of a state of emergency is reasonably necessary;

(b) That he has exercised all administrative remedies available to the cabinet to reduce the population;

(c) That the excess over operational capacity is expected to continue beyond thirty (30) days of the time of the request to the governor; and

(d) A recommended number of prisoners to be released to bring the facilities to within operational capacity.

(4) Upon receipt of the report from the secretary, the governor may:

(a) Determine and declare that the secretary's report is in error or that all administrative remedies have not been exhausted in which case no state of emergency shall commence;

(b) Determine that the secretary's report establishes the existence of a state of emergency and declare a state of emergency specifying the number of prisoners to be released; and

(c) Determine and declare that commencement of a state of emergency would be injurious to the public good, or poses a potential threat to the safety of the public in the state as a whole or in a particular community, in which case no state of emergency shall commence.

(5) If fourteen (14) days after the receipt of the report, the governor has exercised none of the powers prescribed in subsection (4)(a), (b) or (c) of this section, a state of emergency shall be considered to have commenced.

(6) Upon the declaration or commencement of a state of emergency, the sentence of qualified prisoners shall be reduced to time served by the cabinet. If the governor declared the state of emergency, the number of prisoners to be released shall be specified in the declaration. If a state of emergency commences without declaration, the number of prisoners to be released shall be as recommended in the secretary's report to the governor.

(7) During the continuation of the state of emergency, the secretary shall weekly certify to the governor the total prisoner population for each day of the preceding week. The governor shall declare the state of emergency terminated upon notification that the prisoner population has been no higher than operating capacity for seven (7) consecutive days or ninety (90) days from the commencement, whichever comes first.

(8) When releasing prisoners pursuant to this Act the corrections cabinet shall utilize the following priorities:

(a) Group 1—Prisoners who have no detainer, no prior incarceration for felony offenses, no serve-out, no prior or current commitment for offenses of possession of a firearm, escape, or persistent felony offender;

(b) Group 2—Prisoners who have only a detainer or serve-out with no prior incarceration for a felony offense, and no prior or current commitment for offenses involving possession of a firearm, escape, or persistent felony offender;

(c) Group 3—Prisoners who have only one prior incarceration for a felony offense, a detainer, or a serve-out.

(9) Prisoners from group 1 shall first be drawn for release, then group 2, and group 3 (if necessary). Within each group priority shall be given to those persons who are nearest to completing the service of their sentence.

SECTION 3. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall be in effect only during such periods as the order of a court of competent jurisdiction requires the utilization of such measures to limit the inmate population of state correctional facilities.

HB 74, AN ACT relating to prisons and prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The secretary of the corrections cabinet having charge of prisoners who are required to serve a period of six (6) months or more may permit the release of such prisoners on the first day of the month in which their sentences would expire and if the first day of the month falls on Saturday, Sunday or a legal holiday, such prisoners may be released on the last weekday of the preceding month.

Section 2. KRS 202A.201 is amended to read as follows:

(1) Whenever an inmate of any penal and correctional institution is reported by the staff of that institution to the corrections cabinet as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the bureau of corrections shall have an examination conducted on such inmate by a physician.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the corrections cabinet, the secretary *of the corrections cabinet* may then order his transfer to a hospital or forensic psychiatric facility, where he shall remain until the staff of the facility which received him advises the secretary *of the corrections cabinet* that his condition has so improved that he may be returned to the institution from which he came. The secretary *of the corrections cabinet* shall then authorize his return. If the prisoner's sentence expires during his stay in the facility, and he is still in need of involuntary hospitalization, then the staff of the facility shall petition the applicable district court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) During the time of the prisoner's stay in a facility his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the bureau of corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The corrections cabinet may designate county jails or regional jails as places of confinement for convicted felons by written contract with:

(a) The fiscal court, if a county jail;

(b) The jail authority and the fiscal court, if a one county regional jail;

(c) The regional jail authority, if a multicounty regional jail.

(2) The secretary, or such person as the secretary delegates, may, at his own discretion, transfer a prisoner to a county or regional jail participating in the program from any correctional institution for the purpose of facilitating the rehabilitation of the prisoner.

(4) Designations provided for herein shall be accompanied by a contract between the cabinet and the county or regional jail's governing body detailing terms and conditions for the contract and for the government and discipline of the prisoners covered by the contract.

Section 4. KRS 197.140, Prisoners not eligible to be worked outside prison, when; and KRS 413.310, Plaintiff's confinement in penitentiary, are repealed.

The Committee on State Government reported HB 7, with Committee Amendment attached thereto, and HB 35 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to leasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.802 is amended to read as follows:

(1) Whenever an agency determines that it will need office or other space it shall submit a request for the acquisition of such additional space to the department for facilities management in the finance and administration cabinet. If the department for facilities management determines that insufficient space has been allocated to the agency making the request, it may then acquire the space required by lease as provided by KRS 56.800 to 56.820.

(2) The department for facilities management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall, except as provided in KRS 56.804, cause an advertisement to be placed in a newspaper having general circulation in each county where space is sought, soliciting negotiations of a lease to the Commonwealth of

space meeting the agency's general requirements. The advertisement shall be published two (2) times during any seven (7) day period in daily newspapers and one (1) time in weekly newspapers. Whenever an advertisement for space is made in a weekly newspaper, it shall also be made in a newspaper of daily publication in the county of closest geographic proximity to the county in which the space is sought and for which advertisement has been made in a weekly newspaper. All leases of space in Franklin County, and all leases in any county for which the annual rental charge is estimated to exceed one hundred thousand dollars ($100,000), shall be published in at least two (2) newspapers having broad circulation within the state, to be designated by the secretary of the finance and administration cabinet, in addition to a newspaper published and of general circulation in the county in which the space is sought. The advertisement shall contain such general information concerning the agency requirements for the space sought as will reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date and place that responses will be received. Responses may be made by any person in writing on or before the time and date designated and need only designate the type and location of the property, the name and address of the property owner and the date of the availability of the property for lease.

(3) Following the expiration of the time specified for the submission of proposals, the space proposed to be leased to the state by each person submitting a proposal will be inspected to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner or other person submitting the proposal shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted to the commissioner of the department for facilities management who shall, after consultation with the head of the agency for whose use the space is sought, determine the best proposal received in the interest of the state. The commissioner shall, in making his determination, take into account factors including but not limited to: the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; the proposed rental rates; and the general conformity of the property proposed to the advertised space requirements. The lease of the space shall be awarded in the discretion of the commissioner to the person whose proposal most closely conforms to the general requirements of the advertisement for the space and meets applicable state fire, health, safety and sanitation requirements and the requesting agency's reasonable space requirements.

(4) Recognizing the improbability that any two (2) properties proposed to be leased to the state under this section will be identical and that reasonable men might differ in determining the best proposal received for the lease of property to the state, it is the general assembly's intention in this section to confer upon and delegate to the commissioner of the department for facilities management through the finance and administration cabinet, the broadest possible power and authority to make such determinations. Judicial review of the action of the cabinet and the commissioner in the award of leases under this section shall be limited to determining whether the award of a lease by the state was procured by fraud. Any person who by judicial process unsuccessfully challenges the award of any lease of space by the state under this section shall be liable to the state for its costs in the action, including reasonable attorneys' fees.

(5) Any lease for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the capital construction and equipment purchase oversight committee within thirty (30) days after execution. The report shall consist of the name of the agency that will occupy the premises, the terms of the lease, the reason for the lease, and the name of the lessor.

Section 2. KRS 56.811 is amended to read as follows:

(1) The secretary of the department of finance shall provide by regulations adopted pursuant to the provisions of KRS Chapter *13A* [~~13~~], for the manner of calculating the compensation to persons leasing real property to the Commonwealth under this chapter, and for the negotiation of any modifications or changes in the terms and conditions of any such leases as may be determined by the secretary to be needed in the best interests of the Commonwealth.

(2) Any modification to an existing lease that is less than fifty thousand dollars ($50,000) shall be reported to the capital construction and equipment purchase oversight committee within thirty (30) days after execution. The report shall consist of the terms of the lease before and after modification, the reason for the modification, and the name of the lessor.

(3) Any modification to an existing lease that exceeds fifty thousand dollars ($50,000) shall be reported to the capital construction and equipment purchase oversight committee before it is executed. The report shall consist of the terms of the lease before and after the modification, the reason for the modification, and the name of the lessor. If an emergency as defined in KRS 56.804 exists, the modification shall be reported within thirty (30) days of the execution.

The Committee Amendment No. 1 to HB 7 is as follows:

Amend printed copy of HB 7:

On page 5, line 20, by deleting the word "*exceeds*" and inserting in lieu thereof the word "*is*"; and

On page 5, line 20, by inserting, between the words "*($50,000)*" and "*shall*", the words "*or more*".

HB 35, AN ACT relating to representative districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County *west of a line beginning with State Highway 139 at the intersection of the Lyon County and Caldwell County lines, then south on State Highway 139 to its intersection with Muddy Fork Creek, then east along Muddy Fork Creek to its intersection with John King Road, then southeast on John King Road to Adams Mill Road, then southeast along Adams Mill Road to Mt. Zion Church Road, then southeast along Mt. Zion Church Road to State Highway 276, then north on State Highway 276 to State Highway 958, then southeast on State Highway 958 to Dunkenson Road, then southwest on State Highway 958 to the intersection with US 68/State Highway 80, then southwest on US 68/State Highway 80 to the Hoover Plant, then in a direct line from the Hoover Plant south to the confluence of Sinking Fork Creek and Little River, then southeast along the Little River to Potts Creek, then south along Potts Creek to H. C. Futrell Road, then west on Potts Creek to the fork on Potts Creek, then in a straight line northwest from the fork in Potts Creek to the end of Oakland Church Road, then with Oakland Church Road due west to State Highway 139, then south on State Highway 139 to State Highway 807, then west along the center line of State Highway 807 to the intersection with State Highway 164, then west along a straight line that bisects Donaldson Creek Bay to the eastern shore of Lake Barkley and then southwest along the eastern shore of Lake Barkley to the Tennessee state line* [~~contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2~~].

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County *not* contained in *the Fifth District* [~~Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring~~]; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove,

Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and, except for Buck Grove precinct, that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #1 and #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow, Middletown and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25,

29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, Petersville, and Burtonsville.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale-Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio-Walnut, Rookwood, Victory, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas-Washington, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Road, Viley Heights, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington-Imperial.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport North, Airport South, Blueberry Hills South, Blueberry Hills West, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell East, McDowell West, Malabu, Montavesta East, Montavesta West, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, South Point North, Tudor, Bayswater, Kirklevington East, Kirklevington West, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview North, Lakeview South, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, Delong East, River Park, Blairmore, Edgewater, Ascot, Park Hills North, Park Hills South, Cove Lake North, Cove Lake South, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner, Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood, Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 2. Whereas, the filing deadline for primary elections in representative districts will occur before July 15, 1986, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: HB 202.

Business Organizations and Professions: HB 6, HB 34, HB 37, HB 44, HB 146, HB 188.

Calendar

HCR 9, HB 136, HB 161, HB 62, HB 65, HB 118, HB 20, and HJR 1 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Burnette moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Burnette moved the adoption of the following Legislative Citation No. 5.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds the Fulton County High School Football Team, Coaches, Cheerleaders and Sponsor for your successful season. Your involvement and participation in school activities are most creditable. Especially noteworthy is the fact that you are willing to work a little harder and go that extra mile to accomplish your goals. The House of Representatives praises you for your performance and salutes you for bestowing great pride and honor upon your school. (Sponsored by Representative Burnette)

Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 68; Representative J. Harper, HB 45; Representative Keith; HB 22; Representative Lefevers, HB 8, HB 9, HB 22, HB 67, HB 83, HB 105, HB 125, HB 149, HB 159, HB 176; Representative Reinhardt, HB 44; Representative Richards, HB 109; Representative Seum, HB 1.

Announcements

The following meeting was announced:

Committee on Rules, on adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 13, 1986.

On the roll call the vote was yeas 74—Allen, Arnold, Barrows, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, J. Harper, K. Harper, Head, Heleringer, Hines, Holloway, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Long, Mack, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Rose, Scorsone, Siler, Stewart, Stone, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 7—Handy, Holbrook, Jensen, Lile, Overstreet, Seum, Williams.

The motion to adjourn was adopted.

MONDAY, JANUARY 13, 1986

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cline and Deskins.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 10, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 255, by Representatives Blevins, Hines, L. Clark, Burch, Yates, Freibert, Ford and Maggard: AN ACT relating to public health.

HB 256, by Representative Pearman: AN ACT relating to reapportionment of electoral districts in counties.

HB 257, by Representatives Heleringer and Seum: AN ACT relating to motor vehicle insurance.

HB 258, by Representative Brinkley: AN ACT relating to health education courses.

HB 259, by Representatives Blandford, Donnermeyer, Stumbo, Rapier and Worthington: AN ACT making appropriations for the operations, maintenance, support and functioning of the legislative branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 260, by Representative Burnette: AN ACT relating to corporation income taxes.

HB 261, by Representative Burnette: AN ACT relating to teachers retirement.

HB 263, by Representatives Long and Bendl: AN ACT relating to privileged communications between sexual assault counselors and sexual assault victims.

HB 264, by Representative Long: AN ACT relating to subdivision roads.

HB 265, by Representative Long: AN ACT relating to subdivision regulations.

HB 266, by Representative Long: AN ACT relating to the reclassification of cities.

HB 267, by Representative Burch: AN ACT relating to athletic contests.

HB 268, by Representative Donnermeyer: AN ACT relating to public records.

HB 269, by Representatives Priddy, L. Clark, Yates, Bennett, P. Clark, Seum, Handy and Heleringer: AN ACT relating to special districts.

HB 270, by Representative Donnermeyer: AN ACT relating to public records.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 254.

Appropriations and Revenue: HB 250.

Banking and Insurance: HB 253.

Counties and Special Districts: HB 249.

Judiciary-Civil: HB 251, HB 252.

Report of Committees

The Committee on Rules reported HB 20, HB 62 and HCR 9 have been posted for passage in Orders of the Day, January 14, 1986.

The Committee on Rules reported HB 136 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on State Government reported HB 68, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and placed in the Calendar.

HB 68, AN ACT relating to veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in subsections (2), (3), (4), (5), (6) and (7) of this section, and subject to regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to game and fish unless he holds the kind of license or permit, resident or nonresident, that authorizes such act. It is the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to such extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his spouse or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season (except trapping) on said farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon said farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the department may so attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three days may, in the county of his legal residence at the time of his entrance into the service, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry on his person proper identification and papers showing his furlough status.

(7) Any *fifty percent (50%)* [~~totally and permanently~~] disabled American veteran residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while doing so must carry *the card provided for by this subsection in order to be exempt from hunting or fishing license requirements, a disabled veteran shall obtain a copy of his disability rating from the veterans administration. He shall forward such copy to the director of the division of law enforcement of the department of fish and wildlife resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of such certification* [~~Identification indicating they are a totally and permanently disabled veteran as a result of military related injuries~~].

(8) Resident landowners, their spouses or dependent children who kill or trap on their lands any wild animals or birds causing damage to such lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon said lands shall also have the same privilege. Upon destruction of any animal or bird by the above specified individuals, such act must be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(9) In the event a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and the similar authority of Missouri, Tennessee, Virginia and West Virginia, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states are permitted to perform the acts authorized by such license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky must purchase a proper Kentucky license to conform with the reciprocal agreement.

The Committee Substitute to HB 68 is as follows:

HB 68, AN ACT relating to veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in subsections (2), (3), (4), (5), (6) and (7) of this section, and subject to regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to game and fish unless he holds the kind of license or permit, resident or nonresident, that authorizes such act. It is the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to such extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his spouse or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season (except trapping) on said farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon said farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the department may so attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three days may, in the county of his legal residence at the time of his entrance into the service, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry on his person proper identification and papers showing his furlough status.

(7) Any [~~totally and permanently~~] disabled American veteran *who is at least fifty percent (50%) disabled as a result of a service-connected disability who is* residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while doing so must carry *the card provided for by this subsection in order to be exempt from hunting or fishing license requirements, a disabled veteran shall obtain a copy of his disability rating from the veterans administration. He shall forward such copy to the director of the division of law enforcement of the department of fish and wildlife resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of such certification* [~~identification indicating they are a totally and permanently disabled veteran as a result of military related injuries~~].

(8) Resident landowners, their spouses or dependent children who kill or trap on their lands any wild animals or birds causing damage to such lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon said lands shall also have the

same privilege. Upon destruction of any animal or bird by the above specified individuals, such act must be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(9) In the event a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and the similar authority of Missouri, Tennessee, Virginia and West Virginia, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states are permitted to perform the acts authorized by such license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky must purchase a proper Kentucky license to conform with the reciprocal agreement.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: HB 174, HB 246.

Judiciary-Civil: HB 236, HB 227, HB 49, HB 82, HB 88, HB 189.

Education: HB 209, HB 210.

Cities: HB 4, HB 42, HB 147, HB 217, HCR 6.

Calendar

HB 72, HB 74, HB 7 and HB 35 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of SB 63.

Motions, Petitions and Communications

Representative Stumbo moved that the rules by suspended to waive the three-day posting requirement on HB 209, HB 210, HB 174, HB 246, HB 236, HB 227, HB 49, HB 82, HB 88 and HB 189. Agreed.

Representative J. Harper moved the adoption of the following Legislative Citation No. 7:

The House of Representatives of the Commonwealth of Kentucky hereby salutes Frank E. Simon, President of Publisher's Printing, Inc., Shepherdsville, Kentucky, for your continued commitment to economic development.

While Publisher's Printing's five hundred and sixty employees have long been the major stabilizing force in Bullitt County's economy, Publisher's new 27,000 square foot warehouse indicates your vision for the future economic stability of our area.

We wish you every success as you continue to grow and expand as a leader in the publishing industry. (Sponsored by Representative J. Harper)

Agreed.

Representative Heleringer moved the adoption of the following Legislative Citation No. 6:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. and Mrs. Leo G. O'Donnell, grandparents of Representative Bob Heleringer, as they celebrate their 60th Wedding Anniversary on February 1, 1986. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. Sharing life's joys and sorrows for sixty years is the ultimate in living the good life. May God's eternal goodness crown you with lasting love, health and happiness.

This prestigious body extends to you and your family our very best wishes. (Sponsored by Representative Heleringer)

Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 262, by Representatives Clarke, Stumbo, Cowan and Bruce: AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 271, by Representatives Guenthner and Farrow: AN ACT relating to adoption.

HB 272, by Representatives Kerr, Gedling, Blevins, Napier, Priddy, Crupper, Pritchett, P. Clark, Gregory, Ford and Todd: AN ACT relating to motor vehicle registration.

HB 273, by Representative L. Clark: AN ACT relating to child visitation.

HB 276, by Representative Rose: AN ACT relating to crimes and punishments.

HB 277, by Representative Heleringer: AN ACT relating to guardianship.

HB 278, by Representative Heleringer: AN ACT relating to insurance.

HB 275, by Representative Pearman: AN ACT relating to public health.

HB 274, by Representatives Cyrus and Holloway: AN ACT relating to unemployment compensation.

HB 279, by Representatives LeMaster, Lear, Scorsone, Mack, Freibert and Stewart: AN ACT relating to urban-county governments.

HB 280, by Representatives Yates and Bronger: AN ACT relating to alcoholic beverage control.

HB 281, by Representative J. Harper: AN ACT relating to court reporters.

HB 282, by Representatives Stone and Brinkley: AN ACT relating to county personnel.

HCR 20, by Representatives Burnette and Worthington: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

Announcements

The following meetings were announced:

Committee on Rules, on adjournment, State Reception Room.

Committee on Labor and Industry, January 14, 1986, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, January 14, 1986.

On the roll call the vote was yeas 78—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Overstreet, Pearman, Preston, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Siler, Smith, Stewart, Stone, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 4 - Cowan, Heleringer, Holbrook, Williams.

The motion to adjourn was adopted.

TUESDAY, JANUARY 14, 1986

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Theodore Keller, Good Shepherd Catholic Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lefevers.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 13, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 283, by Representative R. Jones: AN ACT relating to personal service contracts and declaring an emergency.

HB 284, by Representative R. Jones: AN ACT relating to personal service contracts.

HB 285, by Representative Rose: AN ACT relating to mining.

HB 286, by Representatives Lyne and Stone: AN ACT relating to commercial paper.

HB 287, by Representative Mack: AN ACT relating to education.

HB 288, by Representatives R. Jones and Bennett: AN ACT relating to workers' compensation.

HB 289, by Representative R. Jones: AN ACT proposing to amend the Constitution of Kentucky relative to penitentiary prisoners.

HB 290, by Representative Little: AN ACT relating to handicapped registration plates.

HB 291, by Representative Little: AN ACT relating to hauling industrial materials.

HB 292, by Representative Little: AN ACT relating to handicapped parking privileges.

HB 293, by Representative Little: AN ACT relating to turnpikes.

HB 294, by Representative Long: AN ACT relating to dams and other water barriers.

HB 295, by Representative P. Richardson: AN ACT relating to permits to carry concealed deadly weapons.

HB 296, by Representative P. Richardson: AN ACT relating to insurance.

HB 297, by Representative Smith: AN ACT relating to retail sales of farm equipment.

HCR 21, by Representatives P. Richardson and LeMaster: A CONCURRENT RESOLUTION commending the Council of State Governments and adjourning in honor thereof.

HR 22, by Representatives P. Richardson and LeMaster: A RESOLUTION adjourning the House of Representatives in honor of the University of Kentucky, Lexington Mayor Scotty Baesler and the Lexington-Fayette County Urban-County Council.

HCR 23, by Representative J. Harper: A CONCURRENT RESOLUTION requesting Toyota to use American engineers, architects, contractors and labor in designing and constructing the Georgetown Toyota automobile plant.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HCR 20.

Appropriations and Revenue: HB 259, HB 260.

Banking and Insurance: HB 257, HB 278.

Business Organizations and Professions: HB 267, HB 280.

Cities: HB 266, HB 279, HB 265.

Counties and Special Districts: HB 264, HB 269, HB 282, HB 275.

Education: HB 258, HB 261.

Health and Welfare: HB 255, HB 271.

Judiciary-Civil: HB 262, HB 273, HB 277, HB 281.

Judiciary-Criminal: HB 263.

Labor and Industry: HB 274.

State Government: HB 256, HB 268, SB 63, HB 270.

Transportation: HB 272, HB 276.

Report of Committees

The Committee on Rules reported HB 7, HB 35, HB 72, and HJR 1 have been posted for passage in Orders of the Day, January 15, 1986.

The Committee on Judiciary-Civil reported HB 49, HB 189, and HB 236 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 49, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the cabinet for human resources.

(2) "Cabinet" means the cabinet for human resources.

(3) "Department" means the department for social services of the cabinet for human resources.

(4) "Adult" means a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others [~~and who has no available, willing, and responsibly able person to assist him~~] and may be in need of protective services.

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social

services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home.

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement.

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse.

(8) "Exploitation" means the improper use of *an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person* [~~funds by a caretaker which have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult~~].

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly cause of death, a coroner's or doctor's report shall be examined as part of the investigation.

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others.

(11) "Emergency protective services" are protective services furnished an adult in an emergency.

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another.

(13) "Court" means the circuit court or the district court if no judge of that circuit court is present in the county.

HB 189, AN ACT relating to the Veterans' Guardianship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 388.280 is amended to read as follows:

(1) Every guardian or conservator who shall receive on account of his ward any moneys from the Veterans Administration, shall file with the court *biennially* [~~annually~~], on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. The guardian or conservator, at the time of filing his account shall exhibit all securities or investments described therein to an officer of the bank or other depository wherein said securities are held for safekeeping, or to an authorized representative of the corporation which is surety on his bond, or to the clerk or deputy clerk of a court of record in this state or to any other reputable person designated by the court upon request of the guardian or conservator or other interested party, who shall certify in writing that he has examined such securities or investments and identified them with those described in the account; provided, that if such depository is the guardian or conservator, such certifying officer shall be an officer other than the officer verifying the account, or the guardian or conservator may exhibit such securities or investments to the judge of the court who shall endorse on the account and copy thereof a statement that the securities or investments shown therein as on hand were in fact exhibited to him and that those exhibited to him were the same as those shown in the account. Such certificate, and the certificate of an official of the bank in which is deposited any cash balance showing the amount on deposit shall be filed by the guardian or conservator with his account. A certified copy of each such account and a signed duplicate of such certificates filed with the court shall be sent by the guardian or conservator to the office of the Veterans Administration having jurisdiction over the area in which such court is located. A duplicate signed copy, or certified copy of any petition, motion or other pleading which is filed in the guardianship proceedings, or in any proceedings for the purpose of removing the disability or minority or of mental incompetency, shall be furnished by the person filing the same, to the office of the Veterans Administration concerned. The court, unless hearing be waived in

writing by the chief attorney of the Veterans Administration, shall fix a time and place for the hearing on such account, petition, or other pleading, not less than fifteen (15) days nor more than thirty (30) days from the date of filing same unless a different available date be stipulated in writing and written notice of the time and place of such hearing shall be given by the court to the aforesaid Veterans Administration office not less than fifteen (15) days prior to the date fixed for the hearing. Notice of such hearing shall in like manner be given to the guardian or conservator and to any others entitled to notice.

(2) The clerk shall mail said Veterans Administration office a copy of each order entered in any guardianship proceeding wherein the Veterans Administration is an interested party.

HB 236, AN ACT relating to judicial compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The salary of the office of justice of the supreme court payable from appropriations to the court of justice shall be sixty thousand dollars ($60,000) per annum.

(2) Subject to the transitional provisions of subsection (3) of this section the salaries of the other judicial offices of the court of justice payable from funds appropriated to the court of justice shall be as follows:

(a) The salary of the office of judge of the court of appeals shall be two thoudsand dollars ($2,000) per annum less than the salary of the office of justice of the supreme court;

(b) The salary of the office of judge of the circuit court shall be two thousand dollars ($2,000) per annum less than the salary of the office of judge of the court of appeals; and

(c) The salary of the office of judge of the district court shall be two thousand dollars ($2,000) per annum less than the salary of the office of judge of the circuit court.

(3) As a transitional provision the present salaries with any adjustments provided pursuant to subsection (5) of this section, of the offices of judge of the court of appeals, judge of the circuit court and judge of the district court shall be increased at the beginning of each of the next four (4) fiscal years as of 1986 by an amount equal to one-fourth (1/4) of the difference between the present salaries and the salaries established by subsection (2) of this section allowing for adjustments pursuant to subsection (5) of this section.

(4) The salary of the office of chief justice shall be one thousand five hundred dollars ($1,500) per annum more than the salary of the office of justice of the supreme court. The salary of the office of chief judge of the court of appeals shall be one thousand dollars ($1,000) per annum more than the salary of the office of judge of the court of appeals.

(5) In order to compensate for changes in the purchasing power of the dollar, cost-of-living increments may be provided either by act of the general assembly relating thereto or by act of the general assembly relating to the judicial branch of government. Judicial salaries shall be deemed to be permanently adjusted by the amount of such increments. In order to maintain the salary differentials provided by this section cost-of-living increases expressed in percentage shall be computed on the salary of the office of justice of the supreme court and the salary of each judicial office shall be adjusted by that amount.

Section 2. The following KRS section is repealed:

64.485 Salaries of justices and judges of Court of Justice—Adjustments for changes in consumer price index—Limits.

The Committee on Transportation reported HB 13, HB 36, HB 45 with Committee Amendment attached thereto, HB 47, and HB 48 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT relating to the Kentucky Airport Zoning Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.862 is amended to read as follows:

(1) Such commission shall consist of six (6) members and the secretary of the transportation cabinet *or in his absence his designated representative* who shall be the ex officio chairman of such commission. *The ex officio chairman of the commission shall not be entitled to vote on any commission action unless there is a tie vote at which time the ex officio chairman may cast the deciding vote.* The members of such commission shall be appointed by the governor for a term of four (4) years. The members shall serve for a term of four (4) years, and until their successors are appointed, provided however that the first two (2) members appointed shall serve for a term of two (2) years; the next two (2) for three (3) years; and the final two (2) for four (4) years. Upon the expiration of the first terms, successors shall be appointed for a term of four (4) years.

(2) Each member shall be a person experienced in and familiar with the field of aeronautics.

(3) Members of the commission shall receive fifty dollars ($50.00) for each day in actual session and shall be reimbursed for travel expenses and other reasonable expenses incident to performance of their duties.

HB 36, AN ACT relating to motor vehicle taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.487 is amended to read as follows:

(1) The cabinet shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing such registration. The cabinet shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the cabinet on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The transportation cabinet shall provide access to all records of motor vehicle registrations to the cabinet and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) *(a)* The property valuation administrator shall, subject to the direction, instruction, and supervision of the cabinet, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The cabinet may provide standard valuation guidelines for use in valuation of motor vehicles.

(b) Taxable values for used motor vehicles whose values no longer appear in the automotive reference manuals shall be determined according to the following formula:

Number of Years Removed From Manual	*Taxable Value*
1	*75% of value of same make vehicle last appearing in manual*
2	*50% of value of same make vehicle last appearing in manual*
3	*25% of value of same make vehicle last appearing in manual*
All Others	*10% of value of same make vehicle last appearing in manual*

(6) The property valuation administrator shall provide to the cabinet by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

HB 45, AN ACT relating to salary supplements for public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, *an urban-county government, or an airport board created pursuant to KRS Chapter 183* [~~of the Commonwealth~~].

(2) "Police officer" means a full-time member of a lawfully organized police department of *a local unit of government* [~~county or city government~~] who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any elected officer, sheriff, deputy sheriff, constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky law enforcement council.

Section 2. KRS 95A.210 is amended to read as follows:

As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

(1) "Commission" means the commission on fire protection personnel standards and education established pursuant to KRS 95A.020.

(2) "Fund" means professional fire fighters foundation program fund.

(3) "Local government" means any city or county, or any combination thereof, *a fire protection district, an airport board* or urban-county government of the Commonwealth.

(4) "Professional fire fighter" means any member of a paid municipal fire department organized under KRS Chapter 95 or a fire protection district organized under KRS Chapter 75, or a county fire department created pursuant to KRS Chapter 67, *or a member of a fire department operated by an airport board under the authority of KRS Chapter 183.*

The Committee Amendment No. 1 to HB 45 is as follows:

Amend printed copy of HB 45:

Beginning on page 2, line 1 and ending on page 2, line 19 by deleting Section 2 in its entirety.

HB 47, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.752 is amended to read as follows:

The department shall prescribe and charge a fee, of *ten dollars ($10.00)* [~~twenty dollars ($20.00)~~] in each instance, for the issuance of such identifying plates, decals, cards, signs or papers, for the identification of motor vehicles, as defined in KRS 281.011(3), (4) and (5) and KRS 138.655(5) and (7) which vehicles have been qualified for, and have been granted reciprocal privileges in Kentucky in regard to motor vehicle registration fees and highway use taxes. The commissioner may by reciprocal agreement with the proper officials of other jurisdictions waive such fees applicable to residents of such other jurisdictions which afford like privileges to residents of Kentucky.

HB 48, AN ACT relating to plans for state highways and parkways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.080, Plans for development of state highways and parkways is repealed.

The Committee on Banking and Insurance reported HB 174 and HB 246 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 174, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.18-110 is amended to read as follows:

(1) Any group policy as defined in KRS 304.18-020 affecting the rights of a Kentucky insured and bearing a reasonable relation to Kentucky which provides hospital or surgical expense benefits, other than for specific disease or accidental injury only, shall provide that with respect to employes or members having been covered under the group policy for at least three (3) months, such employes or members shall have the right upon termination of employment or membership in the group to have the existing group coverage continued for themselves and their eligible dependents. For purposes of this section, a Kentucky insured is a resident of this state covered under a policy of insurance, whether such policy is delivered or issued for delivery in this state or in any other state. Written notice of employe's right to continue existing group coverage shall be given by the insurance company in each master policy, certificate and group policy issued after July 15, 1982. The insurance company shall furnish each employer or group policyholder an adequate supply of attachments for each master policy, certificate or group policy already in effect. An employe or member electing continuation of coverage shall provide the insurance company written notice of election together with the first monthly premium contribution within thirty-one (31) days of the date coverage would otherwise terminate. The group rate premium shall be paid by the employe directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate. Continuation of coverage shall not be available for any employe or member who is or could be covered by medicare, nor who is or could be covered by any other group coverage insured or uninsured providing similar benefits. Continuation of coverage shall terminate on the earlier of:

(a) The date nine (9) months after the date on which the group coverage would otherwise have terminated because of termination of employment or membership,

(b) If the employe or member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made, or

(c) the date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(2) Any group policy described in subsection (1) of this section shall also provide that an employe or member having elected continuation of coverage pursuant to subsection (1) of this section and any covered spouse of an employe or member upon the death or divorce of such employe or member, shall be entitled to have issued to them without evidence of insurability, a health insurance policy on a form then available for conversion from

the group coverage, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or members, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in effect on the later of:

(a) The effective date of the converted policy; or

(b) The date of application therefor, and applicable to the class of risk to which the covered persons belong, their ages, the form, and the amount of insurance provided.

(3) Any group policy as defined in KRS 304.18-020 delivered or issued for delivery in this state which provides hospital or surgical benefits other than for specific diseases or accidental injury only, shall provide that if coverage terminates for any reason and if the individual has been continuously insured under a group policy and under any group policy it replaces for at least three (3) months immediately preceding the termination of coverage, he shall be entitled to have issued to him by the insurer, without evidence of insurability, a health insurance policy on a form providing substantially similar benefits, which shall include the option to continue any existing maternity benefits, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or member, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in effect on the later of:

(a) The effective date of the converted policy; or

(b) The date of application therefor, and applicable to the class of risk to which the covered persons belong and to their ages and to the form and amount of insurance provided.

(4) The converted policy shall cover the person or member and his eligible dependents covered by the group policy on the date the group policy terminated. The effective date of any such converted policy shall be the date of termination of insurance under the group policy.

(5) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(a) Such person is covered for similar benefits by another hospital or surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program or

(b) Similar benefits are provided for, or available to, such person pursuant to, or in accordance with the requirements of, any statute, and the benefits provided or available under any of the sources referred to in paragraph (a) of this subsection and this paragraph for such person, together with the converted policy, would result in over insurance according to the insurer's standards relating to policies converted from group policies. A converted policy made available pursuant hereto shall provide substantially similar benefits but in no event be less than the minimum standards contained in KRS 304.18-120 if delivery of such converted policy is to be made in this state; and, if delivery of such converted policy is to be made elsewhere, it may be on such form as the insurer may then be offering for such conversion in the jurisdiction where such delivery is to be made and which provides substantially in compliance with that required by KRS 304.18-120.

(6) In the event coverage would be continued under the group policy on a person or member following his retirement prior to the time he is or could be covered by medicare, he may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had his insurance terminated at retirement by reason of termination of employment.

(7) The conversion privilege shall also be available:

(a) To the surviving spouse, at the death of the person or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of the death of the person or member; or

(b) To a child solely with respect to himself upon termination of his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(8) This section shall not apply to group major medical expense insurance which supplements basic hospital, medical and surgical coverage under one (1) or more group policies, group contracts or group remittance contracts from which a converted policy or a continuation of coverage is available providing benefits equivalent to the minimum benefits for a converted policy under this section.

(9) If a person or member becomes entitled to obtain a converted policy pursuant to the foregoing provisions, and if such person or member has not been given written notice of the existence of the conversion privilege stated above, within thirty-one (31) days of termination of the group coverage, then in such event the person or member shall have an additional period within which to exercise the conversion privilege. This additional period shall expire fifteen (15) days after the person or member shall have been given said notice but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day conversion period stated above. Written notice presented to the person or member or mailed by the policyholder to the last known address of the person or member or mailed by the insurer to the last known address of the person or member as furnished by the policyholder shall constitute the giving of notice for the purpose of this subsection. If an additional period is allowed the person or member for exercise of the conversion privilege as provided herein, and if written application for the converted policy, accompanied by the first quarterly or semiannual or annual premium, is made after the expiration of the thirty-one (31) day conversion period stated above, but within the additional period allowed an employe or member in accordance with this subsection, the effective date of the converted policy shall be the date of termination from the group.

(10) Before a group policy may be replaced, the employer shall give at least sixty (60) days written notice by certified mail to any employe covered under the replaced policy who will not be covered under the new policy.

Section 2. KRS 304.32-152 is amended to read as follows:

(1) Any group policy, group plan or group contract issued by a nonprofit corporation which provides hospital or surgical expense benefits, other than for specific disease or accidental injury only, shall provide that with respect to employes or members having been covered under the group policy for at least three (3) months, such employes or members shall have the right upon termination of employment or membership in the group to have the existing group coverage continued for themselves and their eligible dependents. Written notice of employe's right to continue existing group coverage shall be given by the insurance company in each master policy, certificate and group policy issued after July 15, 1982. The insurance company shall furnish each employer or group policyholder an adequate supply of attachments for each master policy, certificate or group policy already in effect. An employe or member electing continuation of coverage shall provide the insurance company written notice of election together with the first monthly premium contribution within thirty-one (31) days of the date coverage would otherwise terminate. The group rate premium shall be paid by the employe directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate. Continuation of coverage shall not be available for any employe or member who is or could be covered by medicare, nor who is or could be covered by any other group coverage insured or uninsured providing similar benefits. Continuation of coverage shall terminate on the earlier of

(a) The date nine (9) months after the date on which the group coverage would otherwise have terminated because of termination of employment or membership,

(b) If the employe or member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made, or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(2) Any group policy described in subsection (1) of this section shall also provide that an employe or member having elected continuation of coverage pursuant to subsection (1) of this section and any covered spouse of an employe or member upon the death or divorce of such employe or member, shall be entitled to have issued to them without evidence of insurability, a health insurance policy on a form then available for conversion from the group coverage, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or member, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in

effect on the later of (a) the effective date of the converted policy or (b) the date of application therefor, and applicable to the class of risk to which the covered persons belong, their ages, the form, and the amount of insurance provided.

(3) Before a group policy may be replaced, the employer shall give at least sixty (60) days written notice by certified mail to any employe covered under the replaced policy who will not be covered under the new policy.

Section 3. KRS 304.38-192 is amended to read as follows:

(1) Any group policy, group plan, or group contract issued in this state by a health maintenance organization which provides hospital or surgical expense benefits, other than for specific disease or accidental injury only, shall provide that with respect to employes or members having been covered under the group policy for at least three (3) months, such employes or members shall have the right upon termination of employment or membership in the group to have the existing group coverage continued for themselves and their eligible dependents. Written notice of employe's right to continue existing group coverage shall be given by the insurance company in each master policy, certificate and group policy issued after July 15, 1982. The insurance company shall furnish each employer or group policyholder an adequate supply of attachments for each master policy, certificate or group policy already in effect. An employe or member electing continuation of coverage shall provide the insurance company written notice of election together with the first monthly premium contribution within thirty-one (31) days of the date coverage would otherwise terminate. The group rate premium shall be paid by the employe directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate. Continuation of coverage shall not be available for any employe or member who is or could be covered by medicare, nor who is or could be covered by any other group coverage insured or uninsured providing similar benefits. Continuation of coverage shall terminate on the earlier of

(a) The date nine (9) months after the date on which the group coverage would otherwise have terminated because of termination of employment or membership,

(b) If the employe or member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made, or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(2) Any group policy described in subsection (1) of this section shall also provide that an employe or member having elected continuation of coverage pursuant to subsection (1) of this section and any covered spouse of an employe or member upon the death or divorce of such employe or member, shall be entitled to have issued to them without evidence of insurability, a health insurance policy on a form then available for conversion from the group coverage, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or member, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in effect on the later of (a) the effective date of the converted policy or (b) the date of application therefor, and applicable to the class of risk to which the covered persons belong, their ages, the form, and the amount of insurance provided.

(3) Before a group policy may be replaced, the employer shall give at least sixty (60) days written notice by certified mail to any employe covered under the replaced policy who will not be covered under the new policy.

HB 246, AN ACT relating to mortgages on real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals and extensions of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured

thereby. The mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, *except as provided in subsection (3) of this section* [~~even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien~~], provided, however, any mortgagee upon *written* request of a mortgagor must release that amount of a lien to secure additional indebtedness as exceeds the balance of such additional indebtedness at the time of such request.

(3) (a) If an advance is made after the holder of the first mortgage receives written request as set out herein, then the lien of the first mortgage for the unpaid balance of the advance so made shall be subordinate to any lien or encumbrance.

(b) For the purposes of this subsection, written request shall be deemed to have been received by or served upon the holder of the first mortgage when delivered to the holder personally or by registered or certified mail at the address of the holder appearing in the mortgage or an assignment thereof. The written request shall be signed by the mortgagor or his agent or attorney, and shall set forth a description of the real property to which the request relates, the date, parties to, the volume and initial page of the record of the first mortgage over which priority is claimed for the junior lien or encumbrance, and the amount of the junior lien or encumbrance.

The Committee on Education reported HB 23 with Committee Substitute attached thereto, HB 26, HB 40, HB 125 with Committee Amendment attached thereto, and HB 210 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to school employes who are members of the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 *and in subsection (2) of this section.*

(2) Service credit for members of a county employes retirement system who are employed by a school district shall be determined pursuant to KRS 161.500.

The Committee Substitute to HB 23 is as follows:

HB 23, AN ACT relating to school employes who are members of the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 *and in subsection (2) of this section.*

(2) Members of a county employes retirement system who are employed by a school district to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employe or the school district may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment must be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1986, or their employers, may purchase service credit for previous years if payment is made by August 1, 1987.

HB 26, AN ACT relating to sick leave for school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state*;*[~~.~~]

(b) "Employe" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part time basis*; and*[~~.~~]

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, *grandparents and spouse's grandparents,* without reference to the location or residence of said relative, *and any other blood relative who resides in the teacher's home.*

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section. Any accumulated sick leave days, not to exceed thirty (30) days, credited to a teacher shall remain so credited in the event he transfers his place of employment from one school district to another within the state or to the Kentucky department of education.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employe or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employe's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of such days includes unused sick leave days held by the employe or teacher at the time of implementation of such a program.

HB 40, AN ACT relating to educational purposes and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.201 is amended to read as follows:

(1) For grants to public libraries for promoting, aiding and equalizing public library service in Kentucky, there may be funds appropriated out of the general expenditure fund of the state treasury.

(2) In addition to any other funds appropriated to the department of libraries and archives, there shall be appropriated annually to the department out of the general expenditure fund of the state treasury two dollars ($2) per capita to be used as follows:

(a) The department shall distribute to public libraries on the basis of one dollar and fifty cents ($1.50) per capita to be used for the following purposes:

1. Purchase of library materials and equipment;

2. Maintenance and operation of bookmobiles and extension programs;

3. Staff training and compensation;

4. Building maintenance; and

5. Resource-sharing.

For counties which do not have a public library, the department shall make the per capita distribution to a recognized library organization for the purpose of providing or establishing county-wide public library service under existing departmental guidelines. If there is no recognized library organization, the per capita distribution shall be made to the fiscal court of the county which shall distribute the funds to public education entities.

(b) Fifty (50) cents per capita shall be retained by the department of libraries and archives to be used for the following purposes:

1. Public library development;

2. Program development;

3. Purchase of bookmobiles;

4. Technical support;

5. Purchase of library materials and equipment;

6. Programs and services for the handicapped; and

7. Programs and services in state residential institutions.

Section 2. In order to implement KRS 171.201(2), there is hereby appropriated out of the General Fund for the fiscal year 1986-87 the sum of $7,722,676 and for the fiscal year 1987-88 the sum of $7,722,676.

HB 125, AN ACT relating to textbooks and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.100 is amended to read as follows:

(1) The general assembly shall provide an annual appropriation to the department of education to purchase free textbooks for all public school students attending grades kindergarten through twelve (12).

(2) The superintendent of public instruction, subject to the approval of the state board of education, shall purchase textbooks from the publishers whose books have been adopted by the state textbook commission and may purchase from any publisher other related media not approved by the state textbook commission and distribute them without cost to pupils attending grades kindergarten through twelve (12), of the public schools of the state, in the manner and upon the conditions set out in KRS 156.447, 157.110 and 157.180.

Section 2. To carry out the purposes of this Act, there is appropriated to the Department of Education out of the General Fund in the State Treasury the sum of $17,990,000 for fiscal year 1986-87 and $15,991,000 for fiscal year 1987-88.

Section 3. KRS 156.450, Distribution of books—Agents, is repealed.

The Committee Amendment No. 1 to HB 125 is as follows:

Amend printed copy of HB 125:

On page 1, line 19, delete "$17,990,000" and insert "$16,800,000" in lieu thereof.

On page 1, line 19, delete "$15,991,000" and insert "$17,200,000" in lieu thereof.

HB 210, AN ACT relating to class size.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. One (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance;

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance;

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in *kindergarten and* grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet

the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(10) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(b) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

(c) In allotting classroom units for exceptional children for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(d) Pursuant to regulations of the department of education, a portion of the classroom units for exceptional children appropriated in the biennial budget may be used to provide home or hospital instruction on an hourly basis for pupils properly identified according to state board of education regulations. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(11) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(12) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(13) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(14) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(15) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: HCR 7, HB 5, HB 52, HB 56, HB 80, HB 178, HB 205, HB 41.

State Government: HB 218, HB 222, HB 223, HB 228, HB 229, HB 237, HB 239, HB 30, HB 199.

Education: HB 19, HB 219, HB 241.

Labor and Industry: HB 274, HB 132, HB 198.

Agriculture and Small Business: HB 154, HB 150.

Calendar

HB 68 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 62, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that HB 62 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 14, 1986, roll call on HB 62—Appendix A.)

HB 62 was passed and the title agreed to.

Representative Deskins moved that the vote by which HB 62 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Amendment No. 1 to HB 20. Agreed.

Representative Bendl moved that HB 20, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 24. (See January 14, 1986, roll call on HB 20—Appendix A.)

HB 20, as amended, was passed and the title agreed to.

Representative Bendl moved that the vote by which HB 20, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 9, with Committee Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Amendment No. 1 to HCR 9. Agreed.

Representative Scorsone moved that HCR 9, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 14, 1986, roll call on HCR 9—Appendix A.)

HCR 9, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which HCR 9, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 44; Representative Brinkley, HB 251; Representative Bronger, HB 242; Representative Bruce, HB 19, HB 251; Representative L. Clark, HB 105, HB 157, HB 242; Representative P. Clark, HB 105; Representative Cline, HB 174; Representative Cowan, HB 44; Representative Crupper, HB 45; Representative Dawahare, HB 19, HB 36, HB 105; Representative Ellington, HB 261; Representative Farrow, HB 251; Representative Gedling, HB 19, HB 105; Representative Keith, HB 8, HB 22, HB 24, HB 83, HB 125, HB 149, HB 176; Representative Lile, HB 30, HB 66, HB 68, HB 76, HB 109, HB 130, HB 142; Representative Maggard, HB 19; Representative McElroy, HB 19, HB 154; Representative McNutt, HB 1; Representative Moberly, HB 41; Representative Napier, HB 19; Representative Nett, HB 142; Representative Noe, HB 19, HB 53; Representative Noland, HB 19; Representative Priddy, HB 142; Representative Pritchett, HB 105; Representative Reinhardt, HB 19; Representative Richards, HB 30, HB 31, HB 36, HB 40; Representative Rose, HB 19, HB 105; Representative Scorsone, HB 40; Representative Seum, HB 238; Representative Stewart, HB 19; Representative Strong, HB 19, HB 105; Representative White, HB 40, HB 105, HB 159.

Representative Stewart moved that HB 186 be withdrawn. Agreed.

Representative Rapier moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Rapier moved the adoption of the following HR 18:

HR 18 A RESOLUTION designating the Bloomfield Tobacco Festival as the official Kentucky Tobacco Festival.

WHEREAS, Bloomfield is centrally located in the state near "My Old Kentucky Home" and has for many years been a center for growing and marketing tobacco; and

WHEREAS, tobacco is very important to the history and economy of both Kentucky and Nelson County; and

WHEREAS, Bloomfield began holding the Tobacco Festival in 1954 and it has become an outstanding regional event; and

WHEREAS, the Bloomfield Tobacco Festival attracts people from all over the state to participant in and enjoy the Festival's parade, coronation, dances and balls, flea market, foods, entertainment, contests and Tobacco Show;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Bloomfield Tobacco Festival is designated the official Kentucky Tobacco Festival.

HR 18 was adopted by voice vote.

The following Floor Amendment was filed:

Floor Amendment No. 1 to HB 35, by Representative Maggard:

Amend printed copy of HB 35:

On page 23, line 7, by inserting after "Doty", the phrase ", *Dry Fork*", and by inserting after "and" the words "*Sand Lick*", and by placing brackets around and striking through the word "Baker".

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 298, by Representative Clarke: AN ACT relating to teachers in schools for the blind and deaf.

HB 299, by Representative Clarke: AN ACT relating to the commission on the deaf and hearing impaired.

HB 300, by Representative Moberly: AN ACT relating to the school term.

HB 301, by Representatives Blevins, Richards, Moberly, Mann and Curd: AN ACT relating to crimes and punishments.

HB 302, by Representatives Meyer, Mann, Donnermeyer, Kerr, McBee, Crupper and Worthington: AN ACT relating to sales and use taxes.

HB 303, by Representative Moberly: AN ACT relating to trade practices.

HB 304, by Representative Richards: AN ACT proposing to amend the Constitution of Kentucky relative to penitentiary prisoners.

HB 305, by Representative Moberly: AN ACT relating to crimes and punishments.

HB 306, by Representatives Moberly, Noe and Scorsone: AN ACT relating to a duty-free lunch period for teachers.

HB 307, by Representatives Moberly, T. Jones, Scorsone, Barrows, Hancock and Lear: AN ACT relating to oil and gas.

HB 308, by Representatives Guenthner, Turner and Todd: AN ACT relating to compensation of elected officials.

HB 309, by Representative Burnette: AN ACT relating to corporation income tax.

HB 310, by Representative Pearman: AN ACT relating to the Kentucky State Police.

HB 311, by Representative Brinkley: AN ACT relating to sexual offenses.

HB 312, by Representative J. Harper: AN ACT relating to teachers' retirement.

HB 313, by Representatives Cyrus, Stone and Cline: AN ACT relating to existing facilities within municipalities.

HB 314, by Representatives Bennett, Crupper, Rapier and P. Richardson: AN ACT relating to jockey fees.

HB 315, by Representatives McElroy and P. Richardson: AN ACT relating to motor vehicle registration.

HB 316, by Representatives Seum, Bronger, Gedling and Priddy: AN ACT relating to pollution control.

HB 317, by Representative Bennett: AN ACT relating to unemployment compensation.

HB 318, by Representative Freibert: AN ACT to reduce legislative retirement benefits.

HB 319, by Representative Freibert: AN ACT relating to higher education.

HB 320, by Representative Freibert: AN ACT relating to traffic safety.

HB 321, by Representatives Blevins, Moberly, Richards and Curd: AN ACT relating to the law enforcement foundation program fund.

HB 322, by Representatives Noe, Mann, Clarke, Thomas and Moberly: AN ACT relating to support services for hearing impaired students in public institutions of higher education.

HB 323, by Representative Johnson: AN ACT relating to child support recovery.

HB 324, by Representative Reinhardt: AN ACT relating to future teacher clubs and making an appropriation therefor.

HCR 24, by Representatives Farrow, P. Richardson, Richards, Ford, Noland, Rattliff, Lyne, Hancock, Crupper, Barrows, Cline, Blevins, Long, Gedling, Reinhardt, Burnette, Gregory, Pearman, Napier, Lile and Rose: A CONCURRENT RESOLUTION requesting that the Governor support a cost-of-living adjustment for retired teachers and an increase in the minimum payment for members with long years of service who have been retired for a number of years.

HCR 25, by Representatives Farrow, P. Richardson, Richards, Ford, Noland, Rattliff, Lyne, Hancock, Crupper, Cline, Blevins, Long, Gedling, Reinhardt, Burnette, Gregory, Pearman, Napier, Lile and Rose: A CONCURRENT RESOLUTION directing a study to evaluate the possibility of providing cost-of-living increases for retired members of the Teachers' Retirement System that are more closely related to the increase in the Consumer Price Index.

HJR 26, by Representative Freibert: A JOINT RESOLUTION to raffirm the purpose of the Commonwealth's universities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: HB 278, HB 257.

Representative Keith moved the adoption of the following Legislative Citation No. 8:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. and Mrs. A.B. Pennington, Jr., on your blissful Golden Wedding Anniversary, December 14, 1985. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. Sharing life's joys and sorrows for fifty years is the ultimate in living the good life. May God's eternal goodness crown you with lasting love, health and happiness. Sincere gratitude and appreciation to you, from your daughter Lois, as exemplary parents through the years.

This prestigious body extends to you and your family our very best wishes. (Sponsored by Representative Keith)

Agreed.

Announcements

The following meetings were announced:

Committee on Appropriations and Revenue: January 15, 1986, 10:00 a.m.

Committee on Rules: On adjournment, State Reception Room.

Committee Chairmen: Thirty minutes after adjournment, Room 107.

Budget Review: January 15, 1986, 9:00 a.m., Room 104.

Committee on Cities: January 15, 1986, 8:30 a.m.

Committee on Counties and Special Districts: January 15, 1986, 12 noon.

Representative Brinkley moved that the rules be suspended for the purpose of introducing a Resolution. Agreed.

HR 27, by Representatives Burnette, Bruce, McElroy, Allen, Williams, Brinkley, Stone and Morris: A RESOLUTION directing the Louisville District of the Farm Credit System to adopt a farm foreclosure procedure providing the debtor-farmer the right to repurchase the farm prior to it being conveyed to another party.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 15, 1986.

On the roll call the vote was yeas 78—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, Kerr, Layman, LeMaster, Long, Lyne, Mack, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 11—Deskins, Guenthner, Handy, Holbrook, Jensen, Keith, Lile, Maggard, Overstreet, Preston, Williams.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 15, 1986

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative McElroy.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 14, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 325, by Representatives Blevins, Moberly and Richards: AN ACT relating to higher education.

HB 326, by Representatives Morris, Bruce, Brinkley, Burnette, Reinhardt, Seum, Dawahare, Overstreet, Stone and Cyrus: AN ACT relating to motor vehicle registration.

HB 327, by Representatives Farrow and Allen: AN ACT relating to employment and training services.

HB 328, by Representatives Farrow, McBee, P. Richardson and Crupper: AN ACT relating to pari-mutuel tax.

HB 329, by Representative Johnson: AN ACT relating to engineers and land surveyors.

HB 330, by Representative Noe: AN ACT relating to county clerks.

HB 331, by Representatives Head, Handy, Bronger, Thomas, Seum, Brinkley, Pritchett, Clapp and Stone: AN ACT relating to the inheritance tax.

HB 332, by Representative Holbrook: AN ACT relating to automobile guaranty insurance.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 303.

Appropriations and Revenue: HB 302, HB 309.

Banking and Insurance: HB 286, HB 296.

Business Organizations and Professions: HB 314.

Education: HB 287, HB 298, HB 299, HB 300, HB 306, HB 312, HB 319, HB 321, HB 322, HB 324, HCR 24, HCR 25, HJR 26.

Energy: HB 307.

Health and Welfare: HB 323.

Judiciary-Civil: HB 297.

Judiciary-Criminal: HB 295, HB 301, HB 305, HB 311.

Labor and Industry: HB 288.

Natural Resources and Environment: HB 285, HB 294, HB 316.

State Government: HB 283, HB 284, HB 289, HB 308, HB 310, HCR 23, HB 317, HB 304, HB 318, HB 313.

Transportation: HB 290, HB 291, HB 292, HB 293, HB 315, HB 320.

Report of Committees

The Committee on Rules reported HB 68, HB 74, HB 65 and HB 118 have been posted for passage in Orders of the Day, January 16, 1986.

The Committee on Agriculture and Small Business reported HB 63 and HB 127 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 63 AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the board of agriculture;

(2) "Commissioner" means the commissioner of agriculture;

(3) "Communicable disease" includes hog cholera, brucellosis, leptospirosis, anthrax, black leg, catarrhal influenza of cattle, contagious pleuro-pneumonia, foot and mouth disease or aphthous fever, glanders, hemmorrhagic septicaemia, maladie du coit or dourine, mange of cattle, necrobacillosis and foot rot in sheep, hydrophobia, rinderpest, scabies in cattle, Texas tick or southern cattle fever, tuberculosis, *equine viral arteritis* or any other disease proclaimed by the board to be of a transmissible character;

(4) "Experiment station" means the agricultural experiment station;

(5) "Owner" means any person owning or leasing from another, or having in charge any domestic animal; and

(6) "Premises" means any portion of land, or any structure erected on land, and any vehicle or vessel used in the transportation of passengers, goods or animals.

HB 127 AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 252.170 is amended to read as follows:

As used in KRS 252.180 to *252.240* [~~252.250~~], and KRS 252.990, unless the context requires otherwise:

(1) "Bees" means any stage of the common hive or honey bee (apis mellifica) or other bees kept for the production of honey or wax.

(2) "Bee diseases" means American or European foul brood, sacbrood, bee paralysis, disappearing disease, Isle of Wight disease, or any other disease or abnormal condition of the eggs, larval, pupal or adult stages of bees.

(3) "Apiary" means any place where one or more colonies or nuclei of bees are kept.

(4) "Queen apiaries" means any apiary in which queen bees shall be reared for sale or gift.

(5) "Hive" means any modern frame hive, box hive, box, barrel, log gum, skep, or any other receptacle, natural or artificial, or any part thereof which may be used as a domicile for bees.

(6) "Appliances" means any honey house, used tools, machines, or devices used in the handling or manipulation of bees, honey, wax, or used hives. It shall also mean any container of honey, or wax, which may be used in an apiary.

(7) "Department" means the department of agriculture or any division thereof to which the administration of KRS 252.180 to *252.240* [~~252.250~~] may be delegated by the commissioner of agriculture.

(8) "Commissioner" means the commissioner of agriculture.

Section 2. KRS 252.180 is amended to read as follows:

The commissioner may appoint a competent person as state apiarist, and such number of deputy state apiarists as may be necessary to carry out the provisions of KRS 252.180 to *252.240* [~~252.250~~], and fix their compensation. The state apiarist and deputy state apiarists shall be vested with the powers of police officers in the enforcement of the provisions of KRS 252.180 to *252.240* [~~252.250~~].

Section 3. KRS 252.190 is amended to read as follows:

(1) The commissioner may make and enforce such rules and orders as in his judgment may be necessary to control, eradicate or prevent the introduction, spread or dissemination of any and all bee diseases. In the control or eradication of dangerous bee diseases the commissioner may destroy by burning or otherwise any infected bees, hives, honey or appliances that he may deem necessary for such control or eradication, without remuneration to the owner. Such infected bees, hives, honey and appliances shall be deemed a public nuisance.

(2) The commissioner may publish information concerning the inspection of bees or bee diseases as he deems necessary to the carrying out of KRS 252.180 to 252.240.

(3) The commissioner may order persons owning or possessing bees to report information the commissioner deems necessary for the discharge of his duties under the provisions of KRS 252.180 to 252.240.

(4) The commissioner may establish a schedule of registration fees to be used for carrying out the provisions of KRS 252.180 to 252.240.

(5) Any person failing to comply with the rules and orders of the commissioner shall be guilty of a violation of KRS 252.180 to 252.240.

Section 4. KRS 252.200 is amended to read as follows:

For the purposes of KRS 252.180 to *252.240* [~~252.250~~] the commissioner may establish and maintain quarantines prohibiting the shipment into or within the state, or any subdivision thereof of any bees, queen bees, used hives or any part thereof, used appliances or any material capable of transmitting any bee diseases, for such periods and under such conditions as he may deem necessary to control, eradicate or prevent the introduction, spread, or dissemination of any and all bee diseases, giving such notice thereof as may be prescribed by the commissioner, and during the existence of such order no person shall remove or ship from such area any such material whatever except by special permission or order of the commissioner; Provided, however, That before the commissioner shall promulgate the order of quarantine as provided in this section, the commissioner shall, after due notice to interested persons, give a public hearing under such rules and regulations as the commissioner shall prescribe, at which hearing any interested person may appear and be heard, either in person or by attorney.

Section 5. KRS 252.240 is amended to read as follows:

For the purposes of KRS 252.180 to *252.240* [~~252.250~~] the commissioner or his duly authorized representatives shall have access and egress to any apiary or any premises, buildings or other place, public or private, in which he has reason to believe that bees, honey, wax, used hives or used appliances are kept, and any and all persons who shall resist, or hinder the commissioner or his duly authorized representative in the discharge of his duties under the provisions of KRS 252.180 to *252.240* [~~252.250~~] shall be guilty of a violation of KRS 252.180 to *252.240* [~~252.250~~], provided, however, that no occupied dwelling may be entered without a search warrant.

Section 6. KRS 252.990 is amended to read as follows:

Any person violating any of the provisions of KRS 252.180 to *252.240* [~~252.250~~] shall be punished by a fine of not more than one hundred dollars ($100) [~~or by imprisonment in the county jail for not exceeding sixty (60) days, or by both such fine and imprisonment in the discretion of the court~~]. In addition to the penalties hereinbefore provided, bees or combs, used hives, or other used apiary appliances brought into this state in violation of the provisions of KRS 252.180 to *252.240* [~~252.250~~] shall be confiscated and destroyed.

Section 7. The following KRS sections are repealed:

252.220 Registration of apiaries—Fees—Certificates—Use of revenues.

252.230 Revocation of registration certificate.

252.250 Publication of reports, financial statements, information, and rules and regulations.

The Committee on Appropriations and Revenue reported HB 109, with Committee Amendment attached thereto; and HB 116 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 109 AN ACT relating to the transfer of funds.

WHEREAS, it is the intent of the General Assembly in enacting this Act to repeal the authority granted to the General Assembly through 1984 S.B. 294 to transfer funds from the Teachers Retirement Fund to the General Fund in a budget bill;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.315 is amended to read as follows:

(1) The general assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 16.565; 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(g); 56.100; 61.470; 61.580; 64.345; 64.350; 64.355; 78.650; 95A.220; 136.392; 138.510; 150.150; 154.150; [~~161.420; 161.430;~~] 164A.110; 164A.020; 164A.800; 164A.810; 216A.110; 230.218; 230.398; 230.400; 230.770; 235.330; 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 344.160; 334A.120; 335.140; 342.122; 342.480, etc.

(2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.

(3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Such suspension or modification shall not extend beyond the duration of the budget bill.

The Committee Amendment No. 1 to HB 109 is as follows:

Amend printed copy of HB 109:

On page 1, line six, by placing brackets around and striking through "15.430; 16.656;"

line seven, by placing brackets around and striking through "61.580;"

line eight, by placing brackets around and striking through "78.650; 95A.220;".

HB 116 AN ACT relating to inheritance tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.310 is amended to read as follows:

(1) Agricultural or horticultural land may be assessed at its agricultural or horticultural value in a decedent's estate for Kentucky inheritance tax purposes if the agricultural or horticultural land is qualified real estate and is passing to a qualified person or persons.

(2) Agricultural or horticultural land which comprises a portion of the assets of a corporation *or partnership*, and [~~stock in~~] which is wholly owned by the decedent or by the decedent and qualified persons, the balance of the assets of said corporation *or partnership* being personal property entirely related to the use of agricultural or horticultural land, may be assessed at its agricultural or horticultural value in a decedent's estate for Kentucky inheritance tax purposes for the agricultural or horticultural rate for qualified real estate, if the stock in said corporation passes to a qualified person or persons.

The Committee on Cities reported HB 4, HB 147 and HCR 6 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4 AN ACT relating to enterprise zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.650 is amended to read as follows:

The general assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. There are certain economically depressed areas in the Commonwealth that need particular attention to create new jobs, stimulate economic activity and attract private sector investment rather than government subsidy to improve the quality of life of their citizens. It is the purpose of *this Act* [~~KRS 154.650 to 154.700~~] to encourage new economic activity in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.

Section 2. KRS 154.655 is amended to read as follows:

As used in *this Act* [~~KRS 154.650 to 154.700~~], unless the context otherwise requires:

(1) "Authority" means the enterprise zone authority of Kentucky;

(2) "Enterprise zone" means an area of the Commonwealth declared by the authority to be eligible for the benefits of *this Act* [~~KRS 154.650 to 154.700~~];

(3) "New business" means any person, corporation or other entity who after the time of designation of an enterprise zone becomes engaged in the active conduct of a trade or business within that zone;

(4) "Existing business" means any person, corporation or other entity who during the time of designation of an enterprise zone is already engaged in the active conduct of a trade or business;

(5) "Qualified business" means any *new or existing business* [~~person, corporation or other entity who during the time of designation of an enterprise zone is engaged in the active conduct of a trade or business:~~

~~(a)~~] with at least fifty percent (50%) of its employes performing substantially all of their services within an enterprise zone*:* [~~; and~~]

(a)[~~(b)~~] With *a new business employing* individuals from one (1) or more of the following three (3) categories constituting at least twenty-five percent (25%) of the business's employes:

1. Residents of an enterprise zone;

2. Individuals who have been unemployed for at least *ninety (90) days* [~~the entire year~~] prior to obtaining employment with the business;

3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least *ninety (90) days* [~~the entire year~~] prior to obtaining employment with the business*; or*

(b) With an existing business creating new activity within the enterprise zone of not less than a twenty percent

(20%) increase in the number of employes or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business;

(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the enterprise zone and maintains separate bookkeeping for business activity conducted within the enterprise zone.

(6)[~~(4)~~] "Qualified property" means:

(a) Any tangible personal property located in an enterprise zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and

(b) Any real property located in such zone which:

1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or

2. Was the principal residence of the taxpayer on the date of the sale or exchange;

(c) Any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business.

(7)[~~(5)~~] "Qualified employe" means any employe who works for a qualified business.

Section 3. KRS 154.660 is amended to read as follows:

(1) Any city, county or urban-county government by act of the local legislative body may designate any area or areas within their jurisdiction to be an economically depressed area. Such city, county or urban-county government may then make written application to the authority to have such area or areas declared to be an enterprise zone. Such application shall include a description of the location of the area or areas in question and such other information as the authority may require.

(2) *Two (2) or more cities, counties, urban-county governments or any combination thereof, may by an act of each respective legislative body, designate any area or areas within their collective jurisdictions to be an economically depressed area. After each jurisdiction has enacted the proper ordinances designating the area or areas to be economically depressed for the purpose of applying to the authority for designation as an enterprise zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210-65.300, and shall include:*

(a) The establishment of a joint board to administer the enterprise zone which shall be comprised of representatives from each jurisdiction;

(b) A statement establishing the joint board for the life of the enterprise zone;

(c) A statement establishing uniform local incentives which shall be offered by each jurisdiction;

(d) A statement establishing financial support by each jurisdiction for the administration of the joint board; and

(e) Any other requirements which may be established by the authority.

(3) Any jurisdiction with an existing enterprise zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other jurisdictions. Any governmental unit applying to cross jurisdictional boundaries to amend the area of an enterprise zone shall comply with the provisions of subsection (2) of this section and Section 4 of this Act.

(4) After approval of the interlocal governmental agreement pursuant to KRS 65.210-65.300, two (2) or more jurisdictions may then make written application to the authority to have such area or areas declared to be an enterprise zone. Such application shall include a description of the area or areas in question and such other information as the authority may require.

(5) Upon receipt of an application [~~from a city, county or urban-county government~~] the authority shall review the application to determine whether the area or areas described in the application qualify to be designated an enterprise zone.

(6)[~~(3)~~] The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the unit of local government of the fact along with the reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Boundary changes to existing enterprise zones shall not become effective until after written approval has been granted by the authority.

(2) Any jurisdiction applying to the authority for any amendment to the boundaries of an existing enterprise zone shall certify the proposed area for amendment is contiguous to the existing zone.

(3) The jurisdiction applying for an amendment to the boundaries of an existing enterprise zone shall submit an application under the same guidelines as the original application, with a map showing the original boundary lines and the proposed boundary line changes.

(4) Prior to granting approval for amending the boundaries of an existing enterprise zone, the authority shall consider the following:

(a) The jurisdiction's commitment and incentives to be offered to support the enterprise zone;

(b) If two (2) or more jurisdictions are involved, that each jurisdiction has met the requirements of Section 3 of this Act;

(c) The jurisdiction's attempt to utilize available buildings and properties within the existing zone; and

(d) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone.

Section 5. KRS 154.670 is amended to read as follows:

(1) In *addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988* [~~each of the three (3) calendar years following the calendar year of the effective date of KRS 154.650 to 154.700, the authority may designate two (2) enterprise zones. In the fourth calendar year from the year of the effective date of KRS 154.650 to 154.700, the authority may designate one (1) enterprise zone~~]. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in *this Act* [~~KRS 154.650 to 154.700~~] or by regulation adopted by the authority pursuant to *this Act* [~~KRS 154.650 to 154.700~~], provided that no designation shall be removed less than ten (10) years from the date of original designation. *If the authority removes the designation of any area as an enterprise zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.690 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone.*

Section 6. KRS 154.675 is amended to read as follows:

(1) For the purposes of carrying out the provisions of *this Act* [~~KRS 154.650 to 154.700~~], there is hereby created the enterprise zone authority of Kentucky consisting of nine (9) members. The authority shall be appointed as follows: one (1) member appointed by the governor from a list of three (3) persons nominated by the labor management advisory council; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky municipal league; one (1) member appointed by the governor from a list of three (3) persons nominated by the Kentucky association of counties; one (1) member appointed by the governor who is qualified to represent the interests of Kentucky's small business community; two (2) members appointed by the governor to serve at-large; *two (2) members appointed by the governor from a list of five (5) persons nominated by the secretary of the commerce cabinet* [~~the speaker of the house of representatives or his designee; the president pro tempore of the senate or his designee~~]; and the secretary of commerce.

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The of commerce cabinet shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 7. KRS 154.680 is amended to read as follows:

The authority shall administer *the provisions of this Act,* [~~KRS 154.650 to 154.700~~] and shall have the following powers and duties:

(1) To establish criteria for determining which areas qualify as enterprise zones;

(2) To monitor the implementation of *this Act* [~~KRS 154.650 to 154.700~~] and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the governor and general assembly by October 1 of any year preceding a regular session of the general assembly;

(3) To conduct a continuing evaluation program of enterprise zones;

(4) To promulgate all necessary rules and regulations in accordance with the provisions of KRS Chapter 13A to carry out the purposes of *this Act* [~~KRS 154.650 to 154.700~~];

(5) To assist units of local government in obtaining federal status as an enterprise zone;

(6) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of *this Act* [~~KRS 154.650 to 154.700~~];

(7) To assist the governing authority of an enterprise zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone*;*

(8) To assist the governing authority of an enterprise zone in the development of small business incubators;

(9) To review local incentives every two (2) years; and

(10) To prohibit the certification of any future qualified business within the enterprise zone if the local jurisdiction is not complying with the provisions of this Act, until such time as the authority deems that the jurisdiction has met the requirements of this Act.

Section 8. KRS 154.685 is amended to read as follows:

(1) The authority shall establish and design for public display a master business license which shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters or any other form of permission required by law, including agency rule, to engage in business in a zone.

(2) The authority shall provide information and appropriate assistance to persons desiring to locate and

engage in business in a zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Irrespective of any authority delegated to the authority to implement the provisions of *this Act* [~~KRS 154.650 to 154.700~~], the authority for determining if any requested licenses, permits, certificates, approvals, registrations, charters, or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the license.

Section 9. KRS 154.690 is amended to read as follows:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, shall be exempt from the motor vehicle usage tax.

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of *this Act* [~~KRS 154.650 to 154.700~~], qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by Section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property with a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

Section 10. KRS 154.695 is amended to read as follows:

(1) In order to carry out the purposes of *this Act* [~~KRS 154.650 to 154.700~~], any administrative body which promulgates administrative regulations pursuant to the provision of KRS Chapter 13A, may, by regulation, exempt designated enterprise zones from the provisions of any regulation, in whole or in part, promulgated by that administrative body.

(2) Enterprise zones shall not be exempted from the provisions of any regulation, if such exemption endangers the health and safety of the citizens of the Commonwealth.

(3) The authority shall conduct a review of all state regulations and shall recommend to the appropriate administrative bodies the exemption of regulations promulgated by such agency which would contribute to the implementation of *this Act* [~~KRS 154.650 to 154.700~~].

(4) Any exemption of a regulation in designated zones shall be adopted by regulation in the manner provided by KRS Chapter 13A.

Section 11. KRS 154.700 is amended to read as follows:

(1) Individuals residing in an enterprise zone may establish, under the provisions of *this Act* [~~KRS 154.650 to 154.700~~], a neighborhood enterprise association corporation. There shall be only one (1) such corporation for each geographic neighborhood area. The neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(2) The incorporating residents shall draft a charter and bylaws for the association suitable for doing

business in corporate form. The charter and bylaws shall describe the geographic neighborhood area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the neighborhood, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(3) The incorporating residents shall send to all eligible residents of the corporation's neighborhood area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and bylaws; and

(c) An offer of the stock interest to which each particular resident is entitled without any charge for such stock.

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a neighborhood enterprise association corporation. The authority shall not grant such status unless the corporation has complied with the requirements of *this Act* [~~KRS 154.650 to 154.700~~] and such other requirements as may be adopted by the authority by regulation. Upon granting certification, the authority shall place the corporation's charter and bylaws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of *this Act* [~~KRS 154.650 to 154.700~~]. The authority shall give technical assistance to zone residents attempting to start such corporations.

(5) All property within the neighborhood area of a certified corporation which is owned by state and local government and which is not in current use by such government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under such lease shall not exceed one dollar ($1.00). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of *this Act* [~~KRS 154.650 to 154.700~~].

(6) A certified corporation shall be exempt from any state or local tax during the life of the zone in which it is located.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Kentucky revenue cabinet shall assist the authority in the preparation of a joint questionnaire to be administered by the authority to qualified businesses within an enterprise zone, for the purpose of the authority reporting to the general assembly on the fiscal impact of the enterprise zone program.

HB 147 AN ACT relating to the organization of cities of the sixth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation.

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard.

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute, or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor [~~or chairman of the board of trustees~~] of each city in the county.

(8) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

Section 2. KRS 80.030 is amended to read as follows:

A city housing authority [~~in cities of the first five (5) classes~~] shall consist of the mayor, ex officio, and four (4) persons appointed by him with the approval of the city legislative body. [~~A city housing authority in cities of the sixth class shall consist of the chairman of the board of trustees, ex officio, and four (4) persons appointed by him with the approval of the board of trustees.~~]

Section 3. KRS 80.230 is amended to read as follows:

(1) Cities of all classes may provide funds for carrying out the purposes of this chapter by the issuance of revenue bonds pursuant to a resolution of the housing authority. The bonds or other obligations of a housing authority shall not constitute an obligation of the city. The bonds shall be payable only out of the properties, revenues and assets of the housing authority. Nothing contained in this section shall authorize or permit any city to incur any indebtedness of any kind or nature prohibited by the constitution. Subject to the restrictions set forth in this chapter, a city housing authority may incur any indebtedness and issue any obligations and give any security therefor which it deems necessary or advisable in connection with any project undertaken by it. A city housing authority may issue its bonds to provide for the payment of its indebtedness from time to time in such amounts, with such maturities, upon such terms and conditions and upon such security as the authority deems necessary or advisable in connection with any project undertaken or to be undertaken by it. The bonds shall be signed by the chairman of the authority or other agent designated by the authority and by the mayor[~~, in case of cities of the first five (5) classes, and by the chairman of the board of trustees in case of a city of the sixth class,~~] or by the presiding officer of the legislative body of the city under the city's seal attested by a finance officer of the city.

(2) A city housing authority may in connection with the borrowing of funds or otherwise enter into agreements with the federal government providing for supervision and control of the housing authority or any project and containing such other covenants, terms and conditions as the housing authority deems advisable. In connection with any loan by a government, a city housing authority is authorized to agree to limitations upon the exercise of any of its powers.

(3) Bonds issued pursuant to this section shall have, in the hands of a bona fide holder, all of the qualities of negotiable instruments. They shall be exempt from taxation by the state and its political subdivisions. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this chapter and that it does not constitute an indebtedness of the city within the meaning of any constitutional provisions or limitations. In case any provisions are made for the redemption or prepayment of any bonds before maturity, such provisions shall require that the bonds to be redeemed or prepaid shall be selected by lot from the whole number of the issue then outstanding. The bonds may be issued without a vote of the voters and without any other proceedings or conditions than those proceedings and conditions specified and required by this chapter or by the constitution.

Section 4. KRS 82.150 is amended to read as follows:

(1) The principal of and the interest on such bonds shall be payable solely from the funds provided for such payment. The bonds of any issue may be in one or more series and any one or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest at such rate or rates not exceeding six and one-half per cent (6 1/2%) per annum, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be provided by the city, and may be made redeemable before maturity, at the option of the city, at such price or prices and under such terms and conditions as may be fixed by the city prior to the issuance of the bonds.

(2) The city shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the mayor [~~(or in the case of a city of the sixth class, the chairman of the board of trustees)~~] and the seal of the city or a facsimile thereof shall be affixed thereto and attested by the manual signature of the city clerk, and any coupons attached thereto shall bear the facsimile signature of the mayor and the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signatures or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of KRS 82.140 to 82.165 shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the city may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(3) The city may sell such bonds at a public sale in such manner as it may determine will best effect the purposes of KRS 82.140 to 82.165, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six and one-half per cent (6 1/2%) per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity.

Section 5. KRS 92.270 is amended to read as follows:

(1) The *legislative body* [~~city council~~] of each city of the fifth class[~~,~~] and [~~the board of trustees of any city of the~~] sixth class that does not adopt the county assessment as made, shall appoint three (3) discreet property owners as a board of equalization.

(2) Each member of the board in a city of the fifth class shall receive five dollars ($5.00) for each day of actual service, and in a city of the sixth class not more than five dollars ($5.00) for each day of actual service.

(3) The city clerk shall act as clerk of the board of equalization.

Section 6. KRS 99.340 is amended to read as follows:

The following words or terms shall have the following meanings wherever used in KRS 99.330 to 99.510, unless a different meaning is clearly indicated by the context:

(1) "Slum area" means an area in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, sanitation, or open spaces, high density of population and overcrowding, or any combination of such factors, are unsafe or unfit to occupy, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, injuriously affect the entire area, and constitute a menace to the public health, safety and welfare. A slum area may include lands, structures, or improvements, the acquisition of which is necessary in order to assure the proper clearance and redevelopment of the entire area and to prevent the spread or recurrence of slum conditions thereby protecting the public health, safety, and welfare.

(2) "Blighted area" means an area (other than a slum area as defined in this section) where by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, submergency of lots by water or other unsanitary or unsafe conditions, deterioration of site improvements, diversity of ownership, tax delinquency, defective or unusual conditions of title, improper subdivision or obsolete platting, or any combination of such reasons, development of such blighted area (which may include some incidental buildings or improvements) into predominantly housing uses is being prevented.

(3) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal, or any combination of these, of a development area and the preparation of such area for such residential, commercial, industrial, public, recreational or other structures, works, improvements, facilities or spaces as may be appropriate or necessary. "Redevelopment" and derivatives thereof shall mean develop as well as redevelop.

(4) "Community" means any city or county.

(5) "Mayor" means the mayor [~~or chairman of the board of trustees~~] of a city or the county judge/executive of a county, or the officer thereof having the duties customarily imposed upon the executive head of a city or county.

(6) "Council" means the legislative authority of a city or the fiscal court of a county.

(7) "Redevelopment project" means any or a combination of one or more of the following:

(a) Acquisition of a slum area or a blighted area (as defined in this section);

(b) Demolition and removal of structures and improvements;

(c) Installation, construction or reconstruction of streets, utilities and other site improvements essential to the preparation of sites for uses in accordance with the development plan; and

(d) Making the land available for development or redevelopment by private enterprise or public bodies for uses in accordance with the development plan.

(8) "Development area" means the area of a redevelopment project.

(9) "Development plan" means a plan for the redevelopment of all or any part of a development area.

(10) "Agency" means a public corporate body created pursuant to KRS 99.350.

(11) "Public body" means any city, county, commission, district authority or other public body or political subdivision of the Commonwealth.

(12) "Area of operation" means (a) in the case of a city, the area within the city and the area within five (5) miles of the territorial boundaries thereof, except that the area of operation of a city under KRS 99.330 to 99.510 shall not include any area which lies within the territorial boundaries of another city unless a resolution has been adopted by the council of the other city declaring a need therefor; and (b) in the case of a county, the area within the county, except that the area of operation of a county shall not include any area which lies within the territorial boundaries of a city unless a resolution has been adopted by the council of the city declaring a need therefor.

(13) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or

equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(14) "Planning commission" means a city, county or joint city-county planning and zoning commission or a planning commission established pursuant to the provisions of KRS chapter 100 having authority and responsibility with respect to the area of the community.

(15) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations.

Section 7. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employe, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

(3) "Board" means the board of adjustments unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustments who is not an elected or appointed official or employe of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;

(a) A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted.

(8) "Dimensional variance" means a departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means any regulation incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor[~~, chairman of the board of trustees,~~] or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Regulation" means any enactment by the legislative body of a city or county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the planning commission;

(19) "Several" means two or more;

(20) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(21) "Street" means any vehicular way;

(22) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(23) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban county government where a subdivision means the division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section.

(24) "Unit" means planning unit.

Section 8. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, [~~a board of trustees,~~] a board of commissioners, or otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated.

(4) The terms "improvement" and "project" mean and include

(a) The construction of public ways or the substantial reconstruction or widening thereof,

(b) The construction, installation or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances,

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety and general welfare,

(d) The construction, installation or substantial replacement of fire hydrants in cities of the third through sixth classes, necessary water mains and appurtenances in a city in a county containing a city of the first or second class, or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue.

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include:

(a) The cost of inspections of work as construction progresses,

(b) Interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid,

(c) Capitalized interest on the bonds for a period not to exceed three (3) years,

(d) All or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds,

(e) Payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court, and

(f) Other costs of issuance of bonds.

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in KRS 107.030, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefore be deemed equal in respect of a given wastewater collection project.

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump sum or annual improvement benefit assessments are to be levied.

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially equal by such construction.

Section 9. KRS 107.030 is amended to read as follows:

If a municipality desires to authorize, construct, and finance an improvement pursuant to this chapter, its governing body shall initiate the proceedings by adopting an ordinance, herein called the "First Ordinance," in which announcement shall be made of the public way or ways (which need not be contiguous) proposed to be improved and the geographical limits of the proposed improvement in such manner as to identify the benefited properties or the identity of the property or properties to be benefited by the fire hydrant in cities of the third through sixth classes or by the sewer installations (which may include a sewage treatment plant) which properties may be identified by naming the public way or ways upon which they abut, if any, or by geographical location, or both. In either case the ordinance shall recite the nature and scope of the improvement, a preliminary estimate of the costs thereof, as submitted in writing by an engineer, or firm of engineers, holding a license from the Commonwealth of Kentucky, and the amount, if any, which the city proposes to appropriate from available city funds toward the estimated cost. Any metropolitan sewer district desiring to initiate a wastewater collection project pursuant to this chapter shall, by order of its board cause a written preliminary engineering and financing report to be prepared by one or more engineers, or one or more firms of engineers, licensed to do business in the Commonwealth of Kentucky, or alternatively, by district personnel, for submission to the district. The preliminary engineering and financing report shall designate a geographical area in which a wastewater collection project is recommended for construction. The report shall contain a reasonable description of the project facilities proposed to be constructed, a statement as to benefits to be conferred by the proposed project, the distribution of the benefits and an estimate of the cost of the proposed project. The board of the district shall receive the preliminary engineering and financing report at a regular meeting. The board shall study and evaluate it, and by duly entered order either approve, disapprove the report as submitted, or amend and approve the report. Following approval of the preliminary engineering and financing report by the board of the metropolitan sewer district, the board shall formally initiate proceedings for the construction and financing of the proposed wastewater collection project. This announcement shall identify all benefited properties by naming the public way upon which such benefited properties abut, if any, or by geographical location, or by other appropriate description. The First Ordinance shall describe the nature, scope and preliminary cost estimate of the wastewater collection project being proposed. The ordinance shall determine that each parcel of land identified as benefited property shall be afforded benefits by the projects unless specifically excluded. A public hearing shall be held in respect of the proposed wastewater collection project. In all succeeding proceedings, the city shall be bound and limited by the preliminary report of the engineer, or engineers, with regard to the nature, scope, and extent of the proposed improvement project (unless the First Ordinance be amended, as hereinafter provided); but shall not be bound by, or limited to, the preliminary estimate of costs. The costs shall be determined upon the basis of construction bids publicly solicited as hereinafter provided, and shall be binding upon the city, and upon the owners of property to be benefited by the proposed improvement project, whether the same turn out to be equal to, below, or above such preliminary estimate. Architects, attorneys, consultants, engineers, and fiscal agents shall be employed after reasonable advertisement of the need for their services and with such competition as is permitted by law. In a First Ordinance for a wastewater collection project, the board of a metropolitan sewer district shall make findings of fact regarding the degree and nature of the benefit which will accrue to benefited properties by the installation of the project. If the board determines as a fact that groups of or all of the benefited properties will be affected and benefited in substantially the same manner and to substantially the same degree, the board may classify such benefited properties into one or more assessment zones based upon the similarity of benefits to be derived. In such case, the board may deem all benefited properties within a particular assessment zone to be equally benefited and therefore equally treated for purposes of levying improvement benefit assessments for amortization of bonds issued to provide funds to pay the costs of the project. It is the intent of KRS Chapters 76 and 107 to vest in the board of any metropolitan sewer district undertaking a project authority to make findings of fact in order to classify properties according to benefits conferred from the construction of projects. The board may, by appropriate order, determine that identified groups of benefited properties will be benefited in substantially the same manner by a project and these properties shall be treated equally for purposes of annual improvement benefit assessment of such benefited properties. The board may rely upon any pertinent data in making such findings of fact, including the size and diameter of sanitary sewer service connections to be made available. If the board of the district determines that all properties situated within a particularly described geographic area will not receive substantially equal benefits from the project, the board shall determine in the First Ordinance that such properties shall be annually assessed for benefits conferred based upon the relative assessed land valuation of each benefited property as it relates to the aggregated assessed land valuation of all benefited properties within such particularly described geographic area. Whichever basis of assessment is selected, it shall be used both initially, when land owners may pay improvement benefit assessments in a lump sum, and subsequently during each annual period in which project bonds are outstanding if a lump sum payment is not paid. The First Ordinance shall provide for a public hearing at a time and place specified therein (not less than one (1) week after publication) and shall give notice that at the hearing any owner of property to be benefited may appear and be heard as to

(1) Whether the proposed project should be undertaken or abandoned,

(2) Whether the nature and scope of the project shall be altered,

(3) Whether the project shall be financed through the issuance of bonds according to the "assessed value basis," authorized by this chapter, or

(4) Whether the project shall be financed through assessments made and apportioned on a front-foot basis, as may otherwise be authorized by law. The First Ordinance shall be published pursuant to KRS Chapter 424. The First Ordinance may designate a person, who may be the mayor [~~(or the chairman of the board of trustees)~~], a member of the governing body, or any city official, to preside at and conduct such public hearing. In the absence of a designation in the ordinance, the mayor[~~, chairman of the board of trustees,~~] or a person designated by the mayor [~~or chairman~~] shall preside. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time and place by any elected city officer or member of the governing body.

Section 10. KRS 157.850 is amended to read as follows:

(1) When providing assistance to a board of education as provided in KRS 157.800(1)(b) and (c), the authority may participate in meeting payments required for interest and bond redemption up to a level of

ninety percent (90%) of the annual obligation from recurring funds otherwise unobligated; provided, however, that the agreement of the authority to participate in meeting any such payments shall be limited to the biennial budget period of the Commonwealth. It may be provided in such agreement that participation shall be automatically renewed in subsequent biennial budget periods unless notice of non-renewal is given to the affected board of education at a date agreed upon which shall be prior to the date of the beginning of the next biennial budget period.

(2) Upon receiving a request in writing from a board of education, the authority may in its discretion assist such board of education in financing any project by acting in the capacity and manner authorized by cities by KRS 162.120 through KRS 162.290 except KRS 162.240 and by counties by KRS 162.300 except as modified by KRS 157.800 to 157.895. When so proceeding the following shall apply to the authority:

(a) "City" or "county" means "authority."

(b) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority."

(c) "Governing body of the city" or "fiscal court" means "authority."

(d) "Mayor [~~or chairman of the board of trustees~~]" or "county judge" means "chairman or vice chairman of the authority."

(e) "Ordinance" in the case of the city, or "resolution" in the case of a county, means a "resolution of the authority."

(f) "Building and appurtenances" means "project" as defined in KRS 157.805(5).

(g) It shall be plainly stated on the face of each bond that it was or is issued under the provisions of KRS 157.800 to 157.895 and that it does not constitute an indebtedness of the Commonwealth of Kentucky.

(h) One or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution within or without the Commonwealth, which is a member of the federal deposit insurance corporation. To the extent that they exceed the guarantee of the federal deposit insurance corporation, all deposits of sinking funds and of bond proceeds, whether held as certificates of deposit or otherwise, shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; provided however, in lieu of requiring such security the authority may, in its discretion, invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project.

Section 11. KRS 162.160 is amended to read as follows:

(1) When any city desires to construct a school building, under the provisions of KRS 162.150, the governing body of the city shall, by ordinance, cause plans and specifications for the building to be duly made and filed in the office of the city clerk. The plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction. The plans and specifications shall be prepared by an architect selected by the city and approved by the board of education of the school district, and shall be submitted to the board of education of the school district and to the superintendent of public instruction for approval.

(2) If the plans and specifications are approved, and if the board of education of the school district offers to lease the building under a lease of the kind provided in KRS 162.140, the city governing body shall cause the city clerk to advertise for bids, and thereafter the city governing body, through the mayor [~~or chairman of the board of trustees~~], may contract for the construction of the building.

Section 12. KRS 162.300 is amended to read as follows:

County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(1) "City" means "county" or "urban-county", as the case may be.

(2) "City clerk" means "county clerk" or the appropriate record keeping officer in an urban-county government.

(3) "Governing body of the city" means "fiscal court" or the governing body of an urban-county government, as the case may be.

(4) "Mayor [~~or chairman of the board of trustees~~]" means "county judge/executive" or "chief executive officer of the urban county government", as the case may be.

(5) "Ordinance" means either "ordinance" or "resolution".

Section 13. KRS 162.540 is amended to read as follows:

Upon receiving a request in writing from a board of education, the authority may, in its discretion, assist such board of education in financing any project by acting in the capacity and manner authorized to be performed by cities under KRS 162.120 to 162.290, and by counties under KRS 162.300. When applied to the authority, KRS 162.120 to 162.300 shall be so read that the following terms and passages have the following respective meanings or interpretations:

(1) "City" or "county" means "authority";

(2) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority";

(3) "Governing body of the city" or "fiscal court" means "authority";

(4) "Mayor [~~or chairman of the board of trustees~~]" or "county judge/executive" means "chairman or vice-chairman of the authority";

(5) "Ordinance" in the case of a city, or "resolution" in the case of a county, means a resolution of the authority;

(6) "Building and appurtenances" means "project" as defined in subsection (5) of KRS 162.520;

(7) The last sentence of KRS 162.190 shall read, "It shall be plainly stated on the face of each bond that it was or is issued under the provisions of KRS 162.520 to 162.620 (omitting reference to KRS 162.150 to 162.280 as such), and that it does not constitute an indebtedness of the authority or of the Commonwealth";

(8) KRS 162.200 is modified to permit use of money received from bonds for the additional purpose of paying reasonable expenses incurred in the authorization, advertising, preparation, sale and delivery of bonds, and may include a fee contracted to be paid to a fiscal agent for financial advice and services if the contract or agreement therefor shall have been approved by the board of education and by the authority;

(9) As used in KRS 162.140, "lease" shall have the meaning defined in subsection (6) of KRS 162.520, and the same shall be recorded or filed for recording in the office of the county clerk of the county in which the project is situated, as evidenced by a written receipt or acknowledgment of filing issued by such clerk, or by a copy of the lease attested or certified by such clerk as being of record in his office. It shall be the duty of the secretary of the authority to obtain such evidence before delivery of the bonds to a purchaser thereof; but failure to obtain the same shall not affect the validity of the bonds in the hands of any purchaser or holder;

(10) KRS 162.240 shall not apply; and the following provisions shall govern in lieu thereof:

"One or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution, within or without the Commonwealth, which is a member of federal deposit insurance corporation. All deposits of sinking funds and of bond proceeds shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; Provided, however, in lieu of requiring such security the authority may in its discretion invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project."

Section 14. KRS 198B.070 is amended to read as follows:

(1) The mayor[~~, chairman of the board of trustees,~~] or county judge/executive of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of five (5) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official. At least three (3) members of the appeals board must not be employed by the local government hearing the appeal.

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building official or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the board of housing, buildings and construction. Appeals to the board of housing, buildings and construction shall include citation of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The board of housing, buildings and construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the board of housing, buildings and construction shall be addressed to the commissioner who shall immediately notify the board when an appeal is received. The commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the board on the disposition of the case in question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete such investigations and forward written recommendations to the board within thirty (30) days after receiving an appeal.

(8) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty (30) days after receipt of such recommendations.

(9) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner.

(10) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire board.

(11) In considering an appeal, the board, if it deems it necessary to reach an equitable decision, may exercise any of the powers granted to the commissioner in subsection (7) of this section. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(12) The board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the board shall be final, and there shall be no appeal from the board's decision, except to the circuit court within whose jurisdiction the property in question is located.

Section 15. KRS 424.150 is amended to read as follows:

When any statute providing for newspaper publication of an advertisement does not designate the person responsible for causing the publication to be made, the responsible person shall be:

(1) Where the advertisement is of the filing of a petition or application, the person by whom the same is filed.

(2) Where the advertisement is of an activity or action of:

(a) An individual public officer, the officer himself.

(b) A city, the city clerk if there be one; if not, the mayor [~~or the chairman of the board of trustees~~].

(c) A county, the county clerk.

(d) A district, or a board, commission or agency of a city, county or district, the chief administrative or executive officer or agent thereof.

(e) A court, the clerk thereof.

(f) A state department or agency, the head thereof.

HCR 6 A CONCURRENT RESOLUTION directing a study and publication of the statutory differences which exists between Kentucky's classes of cities.

WHEREAS, Section 156 of the Constitution of the Commonwealth of Kentucky requires its cities to be classified in one of six classes as to population; and

WHEREAS, such classifications have resulted in many statutory differences between cities in the varying classifications; and

WHEREAS, there has not been a thorough review of such statutes by classification since 1980; and

WHEREAS, local governments, state agencies and others are in great need, have requested and lack the expertise and resources to produce such information;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to study and publish its report by municipal classification as to the statutory differences which exists between Kentucky's municipalities.

Section 2. That such study and publications shall be completed by the Legislative Research Commission by December 31, 1986, for distribution to members of the General Assembly and general public.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,500, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the commission.

The Committee on Counties and Special Districts reported HB 11 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11 AN ACT relating to taxation of legal process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement or security agreement;

(d) A tax of three dollars ($3) on each conveyance of real property;

(e) A tax of three dollars ($3) [~~on each mortgage, financing statement, security agreement or conveyance of real or personal property, and~~] on each lien or conveyance of coal, oil, gas or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to [~~the filing of an instrument subject to the tax or~~] the issuance of a marriage license *or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section.* This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the revenue cabinet by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the cabinet.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the cabinet on or before the due date shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

The Committee on Business Organizations and Professions reported HB 34, HB 37 with Committee Amendment attached thereto, HB 44 and HB 188 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 34 AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

No person holding any license issued under KRS 243.020 to 243.670 shall be permitted to transfer or sell such license or licenses to any person during the pendency of any proceedings against such license or license holder for violation of any statute or regulation which may result in suspension or revocation of such license or licenses.

Section 2. KRS 243.100 is amended to read as follows:

No person shall become a licensee under KRS 243.020 to 243.670 who:

(1) Has been convicted of any felony [~~or misdemeanor directly or indirectly attributable to the use of alcoholic beverages,~~] within *five (5)* [~~two (2)~~] years preceding the application, *or is incarcerated at the time of application*;

(2) *Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages or relating to prostitution within five (5) years preceding the application;*

(3) Is under the age of twenty-one (21) years;

(4)[~~(3)~~] Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state or to persons licensed on March 7, 1938;

(5)[~~(4)~~] Is a partnership or corporation, unless each member of the partnership or each of the directors, principal officers, or managers of the corporation has not been convicted of any misdemeanor or felony *as provided in subsection (2) of this Section* [~~directly attributable to the use of alcoholic beverages~~], is twenty-one (21) years of age or more and is a citizen of the United States;

(6)[~~(5)~~] Has had any license issued under this statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(7)[~~(6)~~] Is a partnership or corporation, if any member of the partnership or any director or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction.

Section 3. KRS 243.390 is amended to read as follows:

(1) In addition to such other information as the board may by regulation require, every application for a license under KRS 243.020 to 243.670 shall contain the following information, given under oath:

(a) The name, age, address and residence of each applicant, and, if there is more than one and they are partners, the partnership name and address, and the facts as to their citizenship;

(b) The name and address of each person interested or to become interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, the names, addresses and ages of each officer, director and managerial employe and the facts as to their citizenship, and the state under the laws of which the corporate applicant is incorporated. The department may require the names of all the stockholders;

(c) The premises to be licensed, stating the street and number, if the premises have a street number, and otherwise such a description as will reasonably indicate the location of the premises. The applicant shall also state the nature of his interest in the premises, and the name, age and address of any other person, either as principal or associate, who is interested with the applicant, either in the premises or in the business to be licensed, and the facts as to his citizenship;

(d) A statement that neither the applicant nor any other person referred to in this section has been convicted of any misdemeanor directly or indirectly attributable to the use, manufacture, sale of or traffic in alcoholic beverages, *or involving prostitution,* or any felony, within *five (5)* [~~two (2)~~] years preceding the application, *or is incarcerated at the time of application*; and that he has not had any license that has been issued to him under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application; and

(e) A statement that the applicant will in good faith abide by every statute and ordinance relating to the manufacture, sale and transportation of alcoholic beverages that may be in force in the location at which he seeks to do business, as well as all regulations of the board, and, if the applicant seeks to do business in a locality where local regulations are in effect, all regulations of the local alcoholic beverage control authority.

(2) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the board within ten (10) days after the change.

(3) In giving any notice, or taking any action in reference to a license, the board may rely upon the information furnished in the application or in the supplemental statement connected with the application. Such information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in the application or supplemental statement shall be deemed material in any prosecution for perjury.

Section 4. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

(1) *(a) Conviction of the licensee for any felony, or his conviction for any misdemeanor relating to prostitution; or*

(b) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employes shall have been convicted of two (2) violations of the terms and provisions of KRS Chapters 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any rules or regulations of the revenue cabinet made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(8) Conviction of the licensee, his agents, servants, or employes for[~~:~~

~~(a)~~] The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(9)[~~(b)~~] Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

Section 5. KRS 244.120 is amended to read as follows:

(1) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(2) Acts which constitute disorderly premises consist of permitting *clerks, servants, agents or employes of the licensee, or* patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose*; or*

(e) Solicitation for prostitution.

Section 6. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1) Brewer's license, per annum	$1,500.00
(2) Microbrewery license, per annum	$ 250.00
(3) Distributor's license, per annum	$ 200.00
(4) Retailer's license per annum:	
(a) New applicants	$ 200.00
(b) Renewals	$ 75.00
(5) Dining car license, per annum	$ 100.00
(6) Transporter's license, per annum	$ 25.00
(7) Special temporary license, per month or part of month	$ 12.50
(8) Special off-premises storage license, per annum	$ 25.00
(9) Distributor's storage, per annum	$ 50.00
(10) Special beer transporter's license, per annum	$ 25.00

(11) Such other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection (11) may be exempt from so much of the provisions of subsection *(4)* [~~(3)~~] of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

HB 37, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the alcoholic beverage control board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500; Provided, however, the licensee may have the alternative, subject to the approval of the alcoholic beverage control board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, *four hundred dollars ($400)* [~~one hundred dollars ($100)~~] per day; *all* [~~retail drink~~] liquor *by the drink* licensees, *fifty dollars ($50.00)* [~~twenty-five dollars ($25.00)~~] per day; retail package liquor licensees, *fifty dollars ($50.00)* [~~twenty-five dollars ($25.00)~~] per day; retail beer licensees, *twenty-five dollars ($25.00)* [~~ten dollars ($10.00)~~] per day; all remaining licensees, ten dollars ($10.00) per day.

(2) Payments in lieu of suspension collected by the alcoholic beverage control board shall be deposited in the state treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 2. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of *two (2) violations of the terms and provisions of KRS Chapters 241, 243, or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages within a period of two (2) consecutive years prior to application for employment, or if, within such period, has been twice convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor* [~~any felony, misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years~~].

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in KRS 244.087.

(c) Is not a citizen of the United States.

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause.

(2) Violation of this section shall subject both employer and employe to penalties provided in this chapter, and shall be cause for revocation of license.

Section 3. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *one and seventy-five hundredths (1.75)* [~~3.5~~] liters each of distilled spirits or two hundred twenty (220) liters each of wine, and containing not less than seven hundred fifty (750) milliliters each of distilled spirits, and not less than one hundred (100) milliliters each of wine not exceeding fourteen per cent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than three hundred fifty-five (355) milliliters. If the licensee also holds a retail package license, the containers may contain as little as two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue tax stamps.

Section 4. KRS 244.260 is amended to read as follows:

(1) No wholesaler shall purchase, import or keep upon the licensed premises or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than *twenty-five (25)* [~~two hundred (200)~~] milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding 1.75 liters each of distilled spirits or two hundred twenty (220) liters each of wine, as received from the distiller, rectifier, vintner or wholesaler, as the case may be. Such containers shall at all times have affixed to them such labels as may be required by the regulations of the board, together with all necessary federal revenue and state excise tax stamps.

(2) No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size, except

that wine may be sold in barrels or kegs. "Case" as used in this section means a carton of containers aggregating not less than six (6) liters nor more than twelve (12) liters of *distilled spirits or* wine.

Section 5. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package, other than a railroad system licensee, shall purchase, keep upon the licensed premises or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than *twenty-five (25)* [~~two hundred (200)~~] milliliters of distilled spirits or one hundred (100) milliliters of wine and not exceeding 1.75 liters each of distilled spirits or two hundred twenty (220) liters each of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue tax stamps.

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

The Committee Amendment No. 1 to HB 37 is as follows:

Amend printed copy of HB 37:

on page 1, line 16, after the word "licensees," by deleting the words "*four hundred dollars ($400).*"

on line 17, by deleting the bracket from before the word "one" and after the number "($100)"

on line 18, after the word "licensees," by deleting the word "*fifty dollars*" and on line 19, by deleting the number "*($50.00)*" and by deleting the bracket before the word "twenty-five" and after the number "($25.00)"

on line 20, after the word "licensees," by deleting the word "*fifty dollars ($50.00)*"

on line 21, by deleting the bracket before the word "twenty-five" and after the number "($25.00)"

on page 2, line 1, after the word "licensees," by deleting the words "*twenty-five dollars ($25.00)*" and by deleting the bracket before the word "ten"

on line 2, by deleting the bracket after the number "($10.00)"

HB 44, AN ACT relating to the certification of dietitians and nutritionists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 310 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) In order to be certified as a dietitian, a person shall have:

(a) Earned at least a baccalaureate degree from a college or university which is accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of both;

(b) Successfully completed minimum academic requirements established by the commission on dietetic registration, an affiliate of the national commission for health certifying agencies; and

(c) Successfully completed one (1) of the accredited experience options established by the commission on dietetic registration, which includes but is not limited to, completion of an accredited coordinated undergraduate program, an accredited dietetic internship, and approved three (3) year pre-planned work experience, or a master's degree in nutrition or a related area with six (6) months of full-time or equivalent qualifying experience.

(2) No person shall use the term "dietitian" or hold himself out as a "dietitian" or use any title which contains the term dietitian unless he has been duly certified in accordance with this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

No person shall hold himself out as a "registered dietitian" or use the initials "R.D." unless he has:

(1) Met the requirements established in Section 1 of this Act; and

(2) Successfully completed all other requirements for registration and is duly registered with the commission on dietetic registration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) In order to become a certified nutritionist, a person shall have:

(a) Met all the criteria established in Section 2 of this Act; or

(b) Completed a minimum of a master's degree in food science, nutrition, or in a field closely related to food science or nutrition, such as biochemistry, and has a minimum of twelve (12) semester hours of graduate credit in nutrition from a college or university which is accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of both.

(2) No person shall use the term "certified nutritionist," use the initials "C.N." or hold himself out to be a "certified nutritionist" unless he is duly certified in accordance with the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) The board of certification for dietitians and nutritionists is hereby created to be comprised of five (5) members appointed by the governor. Two (2) members shall be dietitians or registered dietitians, two (2) members shall be certified nutritionists and one (1) member shall be a public member who shall have no pecuniary interest in the nutrition field. Of the four (4) members from the nutrition field, one (1) shall represent hospitals, one (1) shall represent health care facilities other than hospitals, one (1) shall represent state or local nutritional programs or shall be a certified nutritionist in private practice and one (1) shall be a nutrition educator.

(2) The board shall be placed for organizational purposes under the division of occupations and professions and the division shall provide administrative and secretarial services as required.

(3) The purpose of the board is to certify dietitians and to certify nutritionists and to make recommendations as appropriate to the legislative research commission for revision of the statutes under which dietitians and nutritionists are certified.

(4) A member of the board shall serve for a term of four (4) years except that for initial appointments, two (2) shall be for four (4) years, one (1) shall be for three (3) years, and one (1) shall be for two (2) years and one (1) shall be for one (1) year. Members shall serve without compensation and no member shall serve more than two (2) consecutive terms.

(5) The board shall elect one (1) of its members as chairman and this chairman shall serve for the length of his term. The board shall meet on the call of the chairman, at the request of a majority of members or at the request of the director of the division of occupations and professions.

(6) The governor is encouraged to seek recommendations from professional associations representing dietitians and certified nutritionists and from other organizations representing agencies, institutions and other groups reflected in the membership of the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) Any person desiring to be certified as a dietitian or a nutritionist may make application to the board of certification for dietitians and nutritionists on forms provided by the division. Upon verification that an applicant meets qualifications established in Section 1 or Section 3 of this Act, the division shall issue a certificate, subject to approval of the board, which entitles the holder to use the title "dietitian" or "certified nutritionist." The board may require an applicant to submit documentation of qualifications and other such information as may be necessary to complete the certification process.

(2) The board may charge a certification fee to cover the cost of administering this Act but not to exceed fifty dollars ($50). The board shall establish the appropriate fee by regulation and in addition may promulgate other regulations which are necessary and reasonable to carry out the provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall not be construed to affect a person who owns a health food store or who manufacturers, distributes or sells health foods, dietary supplements or vitamins nor shall it be construed to affect any other person who provides nutritional or dietary advice or sells nutritional or dietary supplements so long as the person does not use the title "dietitian", "registered dietitian" or "certified nutritionist."

(2) Nothing in this Act shall be construed to prohibit any person licensed in this state from carrying out any therapy or practice for which he is duly licensed, including but not limited to physicians, osteopaths, podiatrists, chiropractors, dentists and nurses.

SECTION 7. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of Section 1(2), Section 2 or Section 3(2) of this Act or who seeks to be certified or is certified under false pretenses or as a result of fraudulent information, shall be guilty of a class A misdemeanor.

(2) In addition, any person who violates the provisions of Section 1(2), Section 2 or Section 3(2) of this Act, shall be guilty of violating KRS 367.170 of the consumer protection act and shall be subject to injunction and any other penalties provided for in KRS Chapter 367.

HB 188, AN ACT relating to alcoholic beverage control administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of a county administrator involving suspension or revocation of a license for violations of county ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the county administrator within ten (10) days after the issuance of such order. The county administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of a city administrator involving suspension or revocation of a license for violations of city ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the city administrator within ten (10) days after the issuance of such order. The city administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of an urban-county administrator involving suspension or revocation of a license for violations of urban-county ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the urban-county administrator within ten (10) days after the issuance of such order. The urban-county administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

Section 4. KRS 241.110 is amended to read as follows:

(1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county

judge/executive shall thereupon constitute a county alcoholic beverage control administrator for the county. However, the county judge/executive may decline to accept said office, or after accepting same he may resign therefrom, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, he may thereupon appoint a person at least thirty (30) years of age, who at the time of his appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive as county alcoholic beverage control administrator for such county. Before entering upon his duties as such county alcoholic beverage control administrator appointed by the county judge/executive the appointee shall take the oath prescribed by section 228 of the constitution and execute a bond with a good corporate surety in the penal sum of one thousand dollars ($1,000). The cost of the bond shall be borne by the county. Upon the qualification of such person as county alcoholic beverage control administrator for such county, he shall immediately notify the board.

(2) The functions of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be the same as set out in KRS 241.140.

(3) The compensation of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be fixed by the fiscal court in accordance with KRS 64.530. The county judge/executive may also appoint such investigators and clerks as are deemed necessary for the proper conduct of such county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure of the county judge/executive.

(4) No person shall be a county alcoholic beverage control administrator, as herein provided for, an investigator or an employe of the county under the supervision of such county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.

(5) The said county alcoholic beverage control administrator, appointed by the county judge/executive, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of such county and within the corporate limits of any city therein not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be made pursuant to KRS 241.150 *or Section 1 of this Act.*

Section 5. KRS 241.140 is amended to read as follows:

(1) The functions of each county administrator shall be the same, with respect to local licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a county administrator may be less stringent than statutes relative to alcoholic beverage control or than the regulations of the board. No regulation of a county administrator shall become effective until it has been approved by the board. If any city appoints its own administrator as provided for in KRS 241.170, the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city.

(2) The county administrator shall conduct a formal hearing for each licensee cited for violating a county ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 6. KRS 241.150 is amended to read as follows:

Appeals from the orders of a county administrator*, except those involving suspension or revocation of a license for violation of a county ordinance or regulation,* may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the county administrator shall be governed by KRS 243.550 to 243.590.

Section 7. KRS 241.190 is amended to read as follows:

(1) The functions of each city administrator shall be the same with respect to city licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a city administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of a city administrator shall become effective until it has been approved by the board.

(2) The city administrator shall conduct a formal hearing for each licensee cited for violating a city ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 8. KRS 241.200 is amended to read as follows:

Appeals from the orders of each city administrator, *except those involving suspension or revocation of a license for violation of a city ordinance or regulation,* may be taken to the board, by filing with the board within ten (10) days a certified copy of the orders of the city administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the city administrator shall be governed by KRS 243.550 to 243.590.

Section 9. KRS 241.250 is amended to read as follows:

(1) The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of an urban-county administrator shall become effective until it has been approved by the board.

(2) The urban-county administrator shall conduct a formal hearing for each licensee cited for violating an urban-county ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 10. KRS 241.260 is amended to read as follows:

Appeals from the orders of each urban-county administrator, *except those involving suspension or revocation of a license for violation of an urban-county ordinance or regulation,* may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS 243.550 to 243.590.

Section 11. KRS 243.550 is amended to read as follows:

Hearings upon appeals from orders of a county administrator, [~~or~~] a city administrator *or an urban-county administrator, except as provided by Section 1, Section 2 or Section 3 of this Act,* a determination of a state administrator, or upon proceedings for revocation or suspension shall be held by the board. The board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. The board shall control the introduction of evidence and shall hear all arguments of the parties or their counsel as it or he deems necessary or appropriate. The procedure on such hearings shall be summary and in accordance with the regulations of the board. A record of the orders appealed from or the charges filed, of the evidence heard and of all steps taken, shall be kept by the board. Decisions shall be made and orders entered only upon the vote of a majority of the board.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: HB 279.

Natural Resources and Environment: HB 94.

Counties and Special Districts: HB 264, HB 282.

Calendar

HB 49, HB 189, HB 236, HB 13, HB 36, HB 45, HB 47, HB 48, HB 174, HB 246, HB 23, HB 26, HB 40, HB 125 and HB 210 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 7, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to HB 7. Agreed.

Representative Long moved that HB 7, as amended be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 15, 1986, roll call on HB 7—Appendix A.)

HB 7, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which HB 7, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 35, with Floor Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that HB 35 be passed.

Representative Maggard moved the adoption of the Floor Amendment No. 1 to HB 35.

Representative Stumbo moved that HB 35 be placed on the Clerk's desk.

The Chair ruled the Floor Amendment No. 1 to HB 35 had not been placed in the members' books as required.

Representative Morris moved that HB 35 be placed on the Clerk's desk and that it be placed first in Orders of the Day, January 16, 1986. Agreed.

HJR 1, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Amendment No. 1 to HJR 1. Agreed.

Representative Burch moved that HJR 1, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 13. (See January 15, 1986, roll call on HJR 1—Appendix A.)

HJR 1, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which HJR 1, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Burch moved that a call of the roll be taken to show co-sponsors of HJR 1. Agreed.

The following members requested that their names be added as co-sponsors of HJR 1—Bendl, Bennett, Blevins, Bruce, Caldwell, L. Clark, Cline, Cowan, Donnermeyer, Gedling, Guenthner, J. Harper, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Lile, Little, Mack, Maggard, Mann, McBee, McNutt, Moberly, Noe, Priddy, Rapier, Richards, P. Richardson, Riner, Rose, Scorsone, Smith, Stewart, Strong, Stumbo, Thomas, Turner, White, Yates.

Motions, Petitions and Communications

The following Floor Amendment was filed:

Floor Amendment No. 1 to HB 174, by Representative Reinhardt:

Amend printed copy of HB 174:

On page 8, line 6, by deleting "*sixty (60)*" and inserting in lieu thereof "*thirty (30)*"

On page 10, line 18, by deleting "*sixty (60)*" and inserting in lieu thereof "*thirty (30)*"

On page 13, line 5, by deleting "*sixty (60)*" and inserting in lieu thereof "*thirty (30)*".

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, **HB 30**; Representative Bendl, **HB 44**; Representative Blevins, **HB 19, HB 36, HB 109**; Representative Bronger, **HB 19**; Representative Burnette, **HB 59**; Representative Caldwell, **HB 109**; Representative Cline, **HB 30, HB 67**; Representative Donnermeyer, **HB 36, HB 109**; Representative Gray, **HB 59**; Representative Gregory, **HB 30, HB 67, HB 68**; Representative Handy, **HB 4, HB 34, HB 44, HB 316**; Representative K. Harper, **HB 45**; Representative Head, **HB 59**; Representative Kerr, **HB 59**; Representative LeMaster, **HB 314**; Representative Lile, **HB 19, HB 255, HB 269, HB 272, HCR 23**; Representative Lyne, **HB 59**; Representative McBee, **HB 314**; Representative Napier, **HB 59**; Representative Pearman, **HB 154**; Representative Pritchett, **HB 154**; Representative Rattliff, **HB 59**; Representative Reinhardt, **HB 36, HB 59**; Representative Richards, **HB 73, HB 109, HB 315**; Representative Seum, **HB 3, HB 19, HB 76, HB 102, HB 103, HB 110, HB 142, HB 148**; Representative Smith, **HB 59**; Representative Stewart, **HB 19**; Representative Todd, **HB 59**.

Representative Noe moved that HB 59 be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Crupper moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Thomas L. Appelman, Mayor of Augusta, Kentucky, for sixteen years of leadership and unselfish dedication to public service. You have been instrumental in your community's residential growth, in expanding utility service, establishing the Bracken County Ambulance Service, construction of a new firehouse, providing housing for the elderly and low income, and other vital facilities that have made your community a better place to live.

This prestigious body salutes and applauds you on your accomplishments and achievements during your successful years in office. (Sponsored by Representative Crupper)

Agreed.

Representative Pearman moved that HB 139 and HB 140 be reassigned to the Committee on Cities. Agreed.

Representative Cowan moved that he be recorded as voting "yea" on HJR 1. Agreed.

Representative Richards moved that his vote be changed from "nay" to "yea" on HB 20. Agreed.

Representative Nett moved that he be recorded as voting "yea" on HB 7. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 333, by Representatives Maggard, Bronger and Seum: AN ACT relating to motorcycle helmets.

HB 334, by Representatives Stone and Brinkley: AN ACT relating to county personnel.

HB 335, by Representative Long: AN ACT relating to municipal license fees on trades, occupations and professions.

HB 336, by Representative Burnette: AN ACT relating to the solemnization of marriage.

HB 337, by Representative L. Clark: AN ACT relating to workers' compensation.

HB 338, by Representative Bennett: AN ACT relating to licensing of motor vehicles.

HB 339, by Representative Bennett: AN ACT relating to volunteer fire fighters.

HB 340, by Representative Bennett: AN ACT relating to business mergers, liquidations, dispositions, relocations and cessations.

HB 341, by Representatives Mann, Donnermeyer and Noe: AN ACT relating to the identification, education and rehabilitation of hearing impaired persons and making an appropriation therefor.

HB 342, by Representative B. Richardson: AN ACT relating to amusement rides and attractions.

HB 343, by Representatives Holbrook and Johnson: AN ACT relating to planning and zoning.

HB 344, by Representatives Overstreet and Deskins: AN ACT relating to permits to carry concealed deadly weapons.

HB 345, by Representative Scorsone: AN ACT relating to driving under the influence.

HB 346, by Representatives Scorsone and Cowan: AN ACT relating to the representation of indigents by the Office for Public Advocacy.

HB 347, by Representative Pearman: AN ACT relating to health insurance and declaring an emergency.

HB 348, by Representatives Hancock, Farrow, P. Richardson, Long, T. Jones, Noe, Crupper, Brinkley, Donnermeyer, Gray, Arnold, Barrows, Blevins, Cowan, Burnette, Bruce, Morris, J. Harper, Stone, Cyrus, Caldwell, Turner, Little and Richards: AN ACT relating to retirement.

HB 349, by Representative Riner: AN ACT relating to ad valorem taxation of motor vehicles.

HB 350, by Representative Blevins: AN ACT relating to children in foster care.

HB 351, by Representative Blevins: AN ACT relating to teacher certification.

HB 352, by Representatives Lear, Pearman and LeMaster: AN ACT relating to tuition waivers for spouses and dependents of law enforcement officers.

HB 353, by Representatives Napier and Barrows: AN ACT relating to emergency vehicles.

HB 354, by Representative Cowan: AN ACT relating to conduct of schools.

HJR 28, by Representative Noland: A JOINT RESOLUTION designating Kentucky's Official Oil Field Museum in Beattyville, and directing the Tourism Cabinet to include the museum in its promotional maps and materials.

HR 29, by Representative Kerr: A RESOLUTION to adjourn in loving memory of Estella Fisk.

Report of Committees

The Committee on Appropriations and Revenue reported HB 179, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 179, AN ACT making an appropriation to the Legislative Research Commission, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of thirteen thousand five hundred dollars ($13,500) per calendar day during all regular, special and organizational sessions of the General Assembly. This appropriation shall be available for expenditure during the 1985-86 and 1986-87 fiscal years.

Section 2. Whereas, the General Assembly is now in session, and it is necessary that these funds be available immediately, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to additional personnel employed by the commission during the 1986 regular session of the General Assembly from and including January 7, 1986.

The Committee Amendment No. 1 to HB 179 is as follows:

Amend printed copy of HB 179:

On page 1, by inserting after line seven, the following:

Section 2. The director of the legislative research commission, on behalf of the legislative branch, shall submit to the legislative research commission, not later than November 15, 1987, a budget unit request for the daily session expenses of the 1988 Session of the General Assembly. Such request shall detail expenditures proposed for the employment of temporary personnel by the Committee on Committees of the two respective chambers, and for operations of the General Assembly during the 1988 Session.

and on line 8, by renumbering the "Section" to conform.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: HB 184, HB 185, HB 182, HB 183.

Counties and Special Districts: HB 248.

Education: HB 169.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

State Government: HB 229.

Representative Kerr moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Kerr moved the adoption of the following HR 29:

HR 29, A RESOLUTION to adjourn in loving memory of Estella Fisk.

WHEREAS, Estella Fisk of Kenton County, Kentucky, has departed this earthly life and has crossed that final bourne from which no traveler returns; and

WHEREAS, as a firm believer in education this honorable lady served with distinction the people of Kentucky as a teacher at Piner, Morning View and Demossville elementary schools during a career that spanned some fifty-four years; and

WHEREAS, Estella Fisk served as organist at St. Mary's Church, Morning View, Kentucky, for 60 years, for which service she received a special commendation and the blessing of Pope Paul VI; and

WHEREAS, she was a past president and charter member of the Kenton County PTA and the Homemakers Club; and

WHEREAS, all who knew and admired Estella Fisk sorely grieve over her loss and join her family and many friends who mourn her passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the death of Estella Fisk and does extend to her family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns on Wednesday, January 15, 1986, it does so in loving memory of Estella Fisk.

Section 3. That the Clerk be directed to send a copy of this resolution to the family of Estella Fisk.

HR 29 was adopted by voice vote.

Announcements

The following meetings were announced:

Committee on Energy: Cancelled on January 16, 1986.

Committee on Natural Resources and Environment: January 16, 1986, 9:00 a.m.

Committee on Rules: On adjournment.

Budget Review Subcommittee: Ten minutes after adjournment, Room 103.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 16, 1986.

On the roll call the vote was yeas 77—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gray, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Jensen, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Stumbo, Todd, Turner, White, Yates. Nays 4—Heleringer, Holbrook, Keith, Williams.

The motion to adjourn was adopted.

THURSDAY, JANUARY 16, 1986

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Oddvar Berg, Russellville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of January 15, 1986, be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the rules be suspended to act on a Resolution. Agreed.

Representative Stumbo moved the adoption of the following HR 19:

HR 19, A RESOLUTION extending an invitation to Dr. Oddvar Berg to open a session of the House with prayer, and to present his remarks on "What it Means to be an American."

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Dr. Oddvar Berg of Russellville, Kentucky, be and he is hereby invited to offer the opening prayer in the House of Representatives on Thursday, January 16, 1986, and to present in addition his stirring remarks on "What it Means to be an American."

Section 2. That the Clerk be directed to dispatch a copy of this resolution to Dr. Oddvar Berg.

HR 19 was adopted by voice vote.

Dr. Oddvar Berg addressed the House.

Introduction of Bills and Resolutions

HB 355, by Representatives Farrow, Gedling, Crupper, Cline: AN ACT relating to rural and secondary roads.

HB 356, by Representative Bennett: AN ACT relating to arbitration of labor disputes.

HB 357, by Representative Bennett: AN ACT permitting the secretary of labor to enter into reciprocal agreements.

HB 358, by Representative Bennett: AN ACT relating to classified service.

HB 359, by Representative Bennett: AN ACT relating to the occupational safety and health of employes.

HB 360, by Representative Bennett and Gray: AN ACT relating to minimum wage.

HB 361, by Representative Bennett: AN ACT relating to minimum wage.

HB 362, by Representative Bennett: AN ACT relating to wages and hours.

HB 363, by Representative Bennett: AN ACT relating to workers' compensation.

HB 364, by Representative Bennett: AN ACT relating to workers' compensation.

HB 365, by Representative Bennett: AN ACT relating to overtime.

HB 366, by Representatives Meyer, Hancock, Holbrook, McNutt, Mann, Lear, Hines, Johnson, Richards, Scorsone, Mack, Bendl, Handy and Nett: AN ACT relating to the Kentucky urban affairs council.

HB 367, by Representative Brinkley: AN ACT relating to insurance of motor vehicles.

HB 368, by Representative Arnold: AN ACT relating to sanitation district officers.

HB 369, by Representatives Bendl and Mack: AN ACT relating to freedom of choice in purchasing prescription drugs.

HB 370, by Representative Noe: AN ACT relating to local school districts.

HB 371, by Representative Noe: AN ACT relating to motor vehicle operator's license.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 342.

Appropriations and Revenue: HB 331, HB 349.

Banking and Insurance: HB 332.

Business Organizations and Professions: HB 328, HB 329.

Cities: HB 335, HB 339, HB 343.

Counties and Special Districts: HB 330, HB 334, HB 347.

Education: HB 325, HB 351, HB 352, HB 354.

Health and Welfare: HB 327, HB 341, HB 350.

Judiciary-Civil: HB 336.

Judiciary-Criminal: HB 344, HB 345, HB 346.

Labor and Industry: HB 337, HB 340.

State Government: HB 348, HJR 28.

Transportation: HB 326, HB 333, HB 338, HB 353.

Report of Committees

The Committee on Rules reported HB 13, HB 23, HB 26, HB 47, HB 48, HB 49, HB 174, HB 189, and HB 246 have been posted for passage in Orders of the Day, January 17, 1986.

The Committee on Rules reported the following bills have been recommitted:

Appropriations and Revenue: HB 40, HB 125, HB 210, HB 236.

Energy: HB 161.

The Committee on Natural Resources and Environment reported HB 94 and HB 112 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 94, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the

operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) ten percent (10%) or more of any class of voting stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet meeting the requirements of paragraphs (a) through (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall

include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the cabinet require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that, *except for the exemption provided for in subsection (17) of this section,* the cabinet shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(17) Underground coal mines shall only be required to obtain a permit for the surface area affected by the underground mine if the surface area affected is two (2) acres or less and the coal produced does not exceed fifty-thousand (50,000) tons per year as reported for severance tax purposes and no officer, partner, director, or any other individual with any ownership interest in the permit application has more than a ten percent (10%) ownership interest in any other coal operation.

(18) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(19)[~~(18)~~] If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(20)[~~(19)~~] Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(21)[~~(20)~~] Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(22)[~~(21)~~] Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(23)[~~(22)~~] All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

HB 112, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed a credit against the tax imposed on any corporation subject to taxation under KRS 141.040 which installs a new heat-generating facility designed to burn coal and/or wood or which modifies an existing oil or gas-fired boiler or kiln with one designed to burn coal and/or wood, provided that the heat-generating facility will be used in a manufacturing process of a manufacturing business located in this state.

(2) The amount of the allowable credit shall be equal to fifteen percent (15%) of the installation and equipment costs of such conversion, including the cost of residue and fuel handling equipment, but not the cost of financing.

(3) In order to secure the credit allowed by this section, the taxpayer must own or control the business in which the facility is installed and payment in part or whole for such installation and equipment must be made by the taxpayer during the year for which the credit is claimed.

(4) The amount of credit allowed for any one income year shall be limited to fifteen percent (15%) of such cost paid during the year and shall not exceed the amount of the tax imposed by KRS 141.040 for that year less any other tax credit allowed under KRS Chapter 141. No part of the credit shall be applicable to the tax imposed by KRS 141.040 for any other taxable year.

(5) A corporation claiming the credit under this section must submit proof of the installation or modification of the facility to the revenue cabinet which may promulgate such rules and regulations as necessary to effectively administer the requirements of this Act.

The Committee on State Government reported HB 30, HB 58, HB 199, HB 218 with Committee Amendment attached thereto, HB 222, HB 223, HB 228 with Committee Amendment attached thereto, HB 237, HB 239 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT relating to state veterans' nursing homes and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

The general assembly has determined the establishment of state veterans' nursing homes to be in the best interests of the veterans of the Commonwealth and necessary to the well-being of our elderly and disabled veterans. Therefore, it is the purpose of this Act to authorize the establishment of state veterans' nursing homes, to promote their construction or renovation, and to assign administrative responsibility for their planning and operation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established and maintained in the Commonwealth Kentucky state veterans' nursing homes to provide domiciliary or nursing home care to veterans who are residents of Kentucky.

(2) The Kentucky state veterans' nursing homes shall be under the administrative authority and control of the department of military affairs. The department of military affairs may promulgate such administrative regulations as are necessary to operate the homes in compliance with applicable state and federal statutes and regulations.

(3) The department of military affairs is authorized to seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 3. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes, *state veterans' nursing homes* or non-conforming ambulance services as defined by administrative regulation.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts*;*[~~.~~]

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts, provided that no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility*;*[~~.~~]

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employes, provided that such facility does not contain inpatient or resident beds for patients or employes who generally remain in the facility for more than twenty-four (24) hours*;*[~~.~~]

(d) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States veterans administration for boarding services*;*[~~.~~]

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination*; and* [~~.~~]

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

Section 4. Whereas, it is necessary to commence the study and establishment of a state veterans' nursing home immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 58, AN ACT relating to a pledge of allegiance to the flag of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The following verses are designated as the official pledge of allegiance to the Commonwealth of Kentucky:

I pledge allegiance to the flag

of the Commonwealth of Kentucky.

Standing high, and flowing free,

Standing for Justice and Liberty.

United we stand, divided we fall.

God grant us peace, justice and freedom for all.

HB 199, AN ACT relating to purchase of firearms by state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Upon his retirement from state employment, a state employe to whom a handgun has been issued during the course of his employment may purchase the handgun which was issued to him during the course of his employment.

(2) The purchase price shall be determined by the issuing agency.

(3) The employe desiring to purchase the handgun issued to him shall notify the head of the issuing agency of such intention not less than thirty (30) days prior to the scheduled date of his retirement.

(4) This statute shall supersede other state laws with regard to the disposition of state property for the purpose stated above and for no other purpose.

Section 2. This Act shall be retroactive to January 1, 1985. An employe who retired on or after January 1, 1985 may, within sixty (60) days of the effective date of this Act apply to the agency from which he retired to purchase the handgun which was issued to him subject to the conditions of subsection (2) of Section 1 of this Act and the availability of the handgun.

HB 218, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Reorganization Order 85-386 which transferred the Mining Data-522/Petition Review Branch from the Division of Permits, Department for Surface Mining Reclamation and Enforcement to the Division of Administrative Services, Office of the Secretary, Natural Resources and Environment Protection Cabinet.

The Committee Amendment No. 1 to HB 218 is as follows:

Amend printed copy of HB 218:

On page 1, line 2, by inserting before the word "which" the words "and the accompanying reorganizational plan required by KRS Chapter 12"; and

On page 1, line 6, by inserting in lieu of the word "Environment," the word "Environmental."

HB 222, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the department for health services within the cabinet for human resources affected by Executive Order 84-927. Such confirmation shall include the creation of the statewide health coordinating council within that department.

HB 223, AN ACT relating to the governor's council on vocational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.086 is amended to read as follows:

(1) There shall be a *governor's* [~~state advisory~~] council on vocational education, consisting of *thirteen (13)* [~~a minimum of twenty-one (21)~~] members appointed by the governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of P.L. 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the state job training coordinating council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations and special populations to include women, the disadvantaged, the handicapped, individuals with limited English proficiency and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the finance and administration cabinet. All expenses reimbursed to members shall be paid from operating funds available to the governor's council on vocational education.

(5) The council shall be assigned the duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the state board of education or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the state board of education and make reports to the governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for the handicapped; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the state board of education on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the state board of education on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins vocational education act (P.L. 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the state board of education to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the state board of education on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the state board of education on the adequacy and effectiveness of the coordination that takes place between vocational education and the job training partnership act; and

(j) Advise the governor, the state board of education, state job training coordinating council, the secretary of the cabinet for human resources, and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt by-laws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council is authorized to obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions and to contract for such services as may be necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to federal grants. Such funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the education and humanities cabinet to act as its fiscal agent for purposes of disbursement, accounting and auditing [~~Membership of the council shall be structured so as to comply with the requirements of section 1056 of Public Law No. 92-318, the education amendments of 1972. Members shall receive fifty dollars ($50.00) per diem, along with necessary expenses, for attending meetings.~~

~~(2) The principal duty of the council shall be to comply with the requirements of Public Law No. 92-318, and amendments thereto. Furthermore, the council shall be the planning and recommending agency for postsecondary education in Kentucky and may apply for funding under the appropriate federal and state acts in order to carry out its purposes, as required by section 1056 of Public Law No. 92-318.~~

~~(3) The state advisory council for vocational education shall (a) review the overall needs of~~

~~postsecondary/technical education in the Commonwealth and recommend the development of comprehensive plans which meet those needs. The council shall transmit such plans to the governor, the legislative research commission, the state department of education, the department for occupational education and any affected agency at least six (6) months prior to the beginning of any regular session of the general assembly. Prior to and during the regular session, the council shall review all proposed legislation relating to vocational/technical education in the Commonwealth; (b) to advise and consult with the state board for occupational education, superintendent of public instruction, and assistant superintendent for vocational education in the development of rules and regulations and annual state plan for the administration of vocational education. The council shall be responsible for holding public hearings on vocational education and evaluate significant areas of the state program of vocational education each year, prepare an annual report of its findings, then submit it through the state board for occupational education to the United States commissioner of education and the national advisory council on vocational education in compliance with the provisions of the acts of congress which are accepted for the purpose of supporting vocational education in Kentucky and the ensuring of compliance with the provisions of KRS Chapters 156 and 163, which pertain to programs of vocational education in the Commonwealth of Kentucky. Members of the council shall receive fifty dollars ($50.00) per day attendance at each meeting or hearing~~].

Section 2. This confirms Executive Order 85-161 as amended by Executive Order 85-310 to the extent it is not otherwise confirmed by this Act.

HB 228, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government—Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

(b) Kentucky council on agriculture.

7. Department of education.

(a) Superintendent of public instruction.

(b) State board of education.

8. Auditor of public accounts.

9. Railroad commission.

II. Program cabinets headed by appointed officers:

1. Justice cabinet:

(a) Department of state police.

(b) Department of training.

(c) Office of administration.

2. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

(c) Department for libraries and archives.

(d) State advisory council for vocational education.

(e) Kentucky industries for the blind.

(f) Kentucky educational television.

(g) Kentucky historical society.

(h) Kentucky teachers retirement system board of trustees.

(i) Kentucky school building authority.

3. Natural resources and environmental protection cabinet:

(a) Environmental quality commission.

(b) Kentucky nature preserves commission.

(c) Department for environmental protection.

(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.

(f) Office of general counsel.

(g) Office of communications and community affairs.

4. Transportation cabinet:

(a) Department of highways.

(b) Department of vehicle regulation.

(c) Department of administrative services.

(d) Department of fiscal management.

(e) Department of rural and municipal aid.

(f) Office of aeronautics.

(g) Office of general counsel.

(h) Office of public relations.

(i) Office of personnel management.

(j) Office of minority affairs.

5. Commerce cabinet:

(a) Department of economic development.

(b) Department of the arts.

(c) Tobacco research board.

(d) Kentucky development finance authority.

(e) Office of business and technology.

6. Public protection and regulation cabinet:

(a) Public service commission.

(b) Department of insurance.

(i) Custodian of insurance securities.

(c) Department of housing, buildings, and construction.

(d) Department of financial institutions.

(e) Department for mines and minerals.

(f) Department of public advocacy.

(g) Department for alcoholic beverage control.

(h) Kentucky harness racing commission.

(i) Kentucky state racing commission.

(j) Registry of election finance.

(k) Board of claims.

(l) Crime victims compensation board.

(m) Kentucky board of tax appeals.

(n) Backside improvement commission.

7. Cabinet for human resources:

(a) Department for health services.

(b) Department for employment services.

(c) Department for social insurance.

(d) Department for social services.

(e) Unemployment insurance commission.

(f) Public assistance appeals board.

(g) Office of administrative services.

(h) Office of communications and council affairs.

(i) Office of general counsel.

(j) Office of inspector general.

(k) Office of policy and budget.

(l) Office of the ombudsman.

8. Finance and administration cabinet:

(a) Office of legal and legislative services.

(b) Office of management services.

(c) Office of historic properties.

(d) Department for administration.

(e) Department of facilities management.

(f) Department of information systems.

(g) State property and buildings commission.

(h) Kentucky pollution abatement authority.

(i) Kentucky savings bond authority.

(j) Deferred compensation systems.

(k) Office of equal employment opportunity contract compliance.

(l) Capital plaza authority.

(m) County officials compensation board.

(n) Financial disclosure review commission.

(o) Kentucky employes retirement systems.

(p) Commonwealth credit union.

(q) State investment commission.

(r) Kentucky housing corporation.

(s) Governmental services center.

(t) Kentucky local correctional facilities construction authority.

(u) Kentucky turnpike authority.

(v) Historic properties advisory commission.

9. Energy cabinet:

(a) Department of energy production and utilization.

(b) Department of energy research and development.

(c) Office of administration.

(d) Office of energy policy and evaluation.

10. Corrections cabinet:

(a) Parole board.

(b) Commission on corrections and community services.

(c) Department of adult correctional institutions.

(d) Department of community services and facilities.

(e) Office of administrative services.

(f) Office of corrections training.

(g) Office of general counsel.

11. Labor cabinet:

(a) Department of workplace standards.

(b) Department of workers' claims.

(c) Kentucky labor-management advisory council.

(d) Occupational safety and health standards board.

(e) Prevailing wage review board.

(f) Workers' compensation board.

(g) Kentucky employes insurance association.

(h) Apprenticeship and training council.

(i) State labor relations board.

(j) Kentucky occupational safety and health review commission.

(k) Office of administrative services.

(l) Office of labor management relations.

(m) Office of general counsel.

12. Revenue cabinet:

(a) Department of property taxation.

(b) Department of processing and enforcement.

(c) Department of professional and support services.

(d) Office of revenue estimating and economic analysis.

13. Tourism cabinet:

(a) Department of travel development.

(b) Department of parks.

(c) Department of fish and wildlife resources.

(d) Kentucky horse park.

(e) State fair board.

(f) Office of administrative services.

(g) Office of general counsel.

III. Other departments headed by appointed officers:

1. Department of military affairs.

2. Department of personnel.

3. Council on higher education.

4. Department of local government.

5. Kentucky commission on human rights.

6. Kentucky commission on women.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the commerce cabinet an office of business and technology. The office shall:

(a) Be headed by an executive director who shall be appointed by the secretary of commerce pursuant to KRS 12.050;

(b) Be attached to the office of the secretary of commerce and shall report directly to the secretary;

(c) Be responsible for coordinating and monitoring the various activities being carried out in the Commonwealth by state agencies that relate to adapting advanced technologies to the work place; and

(d) Review and analyze the possibility of establishing research and technology centers in the Commonwealth.

(2) The cost of administrative facilities and services for the office of business and technology shall be paid by the commerce cabinet.

The Committee Amendment No. 1 to HB 228 is as follows:

Amend printed copy of HB 228:

on page 9, after line 1, by adding the following:

Section 3. The General Assembly hereby confirms Executive Order 85-299, issued April 25, 1985, creating an Office of Business and Technology in the Commerce Cabinet.

HB 237, AN ACT relating to the reorganization of the Higher Education Assistance Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Asembly confirms the reorganization of the Kentucky Higher Education Assistance Authority by Executive Order 85-389. Such confirmation shall include the following:

(1) Creating the Division of Program Administration, which shall be headed by the director appointed by and reporting to the Executive Director of the Authority. The Division of Program Administration shall have and exercise the functions of the Authority relating to administration of student loans, grants, work-study and other programs of financial assistance to eligible students now or hereafter established by the Authority. The Division of Program Administration shall maintain such personnel, records, files, and equipment as may be necessary or desirable to the exercise of the functions of the division.

(2) Creating the Division of Fiscal Affairs which shall be headed by a director appointed by and reporting to the Executive Director of the Authority. The Division of Fiscal Affairs shall have and exercise the functions of the Authority relating to financial planning, fund maintenance, purchasing, accounting, record keeping, maintenance of supplies and equipment, and all other matters of a financial nature within the purview of the statutory powers of the Authority. The Division of Fiscal Affairs shall maintain such personnel, records, files and equipment as may be necessary or desirable to the exercise of the functions of the division.

(3) Prohibiting any other divisions within the Kentucky Higher Education Assistance Authority.

(4) Attaching the Kentucky Higher Education Assistance Authority to the Finance and Administration Cabinet for administrative purposes.

(5) Requiring any subsequent administrative reorganization to be subject to approval by the Secretary of the Finance and Administration Cabinet.

HB 239, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government—Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

(b) Kentucky council on agriculture.

7. Department of education.

(a) Superintendent of public instruction.

(b) State board of education.

8. Auditor of public accounts.

9. Railroad commission.

II. Program cabinets headed by appointed officers:

1. Justice cabinet:

(a) Department of state police.

(b) Department of *criminal justice* training.

(c) Office of administration.

2. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

(c) Department for libraries and archives.

(d) State advisory council for vocational education.

(e) Kentucky industries for the blind.

(f) Kentucky educational television.

(g) Kentucky historical society.

(h) Kentucky teachers retirement system board of trustees.

(i) Kentucky school building authority.

3. Natural resources and environmental protection cabinet:

(a) Environmental quality commission.

(b) Kentucky nature preserves commission.

(c) Department for environmental protection.

(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.

(f) Office of general counsel.

(g) Office of communications and community affairs.

4. Transportation cabinet:

(a) Department of highways.

(b) Department of vehicle regulation.

(c) Department of administrative services.

(d) Department of fiscal management.

(e) Department of rural and municipal aid.

(f) Office of aeronautics.

(g) Office of general counsel.

(h) Office of public relations.

(i) Office of personnel management.

(j) Office of minority affairs.

5. Commerce cabinet:

(a) Department of economic development.

(b) Department of the arts.

(c) Department of agriculture (headed by an elected official).

(d) Tobacco research board.

(e) Kentucky development finance authority.

6. Public protection and regulation cabinet:

(a) Public service commission.

(b) Department of insurance.

(i) Custodian of insurance securities.

(c) Department of housing, buildings, and construction.

(d) Department of financial institutions.

(e) Department for mines and minerals.

(f) Department of public advocacy.

(g) Department for alcoholic beverage control.

(h) Kentucky harness racing commission.

(i) Kentucky state racing commission.

(j) Registry of election finance.

(k) Board of claims.

(l) Crime victims compensation board.

(m) Kentucky board of tax appeals.

(n) Backside improvement commission.

7. Cabinet for human resources:

(a) Department for health services.

(b) Department for employment services.

(c) Department for social insurance.

(d) Department for social services.

(e) Unemployment insurance commission.

(f) Public assistance appeals board.

(g) Office of administrative services.

(h) Office of communications and council affairs.

(i) Office of general counsel.

(j) Office of inspector general.

(k) Office of policy and budget.

(l) Office of the ombudsman.

8. Finance and administration cabinet:

(a) Office of legal and legislative services.

(b) Office of management services.

(c) Office of historic properties.

(d) Department for administration.

(e) Department of facilities management.

(f) Department of information systems.

(g) State property and buildings commission.

(h) Kentucky pollution abatement authority.

(i) Kentucky savings bond authority.

(j) Deferred compensation systems.

(k) Office of equal employment opportunity contract compliance.

(l) Capital plaza authority.

(m) County officials compensation board.

(n) Financial disclosure review commission.

(o) Kentucky employes retirement systems.

(p) Commonwealth credit union.

(q) State investment commission.

(r) Kentucky housing corporation.

(s) Governmental services center.

(t) Kentucky local correctional facilities construction authority.

(u) Kentucky turnpike authority.

(v) Historic properties advisory commission.

9. Energy cabinet:

(a) Department of energy production and utilization.

(b) Department of energy research and development.

(c) Office of administration.

(d) Office of energy policy and evaluation.

10. Corrections cabinet:

(a) Parole board.

(b) Commission on corrections and community services.

(c) Department of adult correctional institutions.

(d) Department of community services and facilities.

(e) Office of administrative services.

(f) Office of corrections training.

(g) Office of general counsel.

11. Labor cabinet:

(a) Department of workplace standards.

(b) Department of workers' claims.

(c) Kentucky labor-management advisory council.

(d) Occupational safety and health standards board.

(e) Prevailing wage review board.

(f) Workers' compensation board.

(g) Kentucky employes insurance association.

(h) Apprenticeship and training council.

(i) State labor relations board.

(j) Kentucky occupational safety and health review commission.

(k) Office of administrative services.

(l) Office of labor management relations.

(m) Office of general counsel.

12. Revenue cabinet:

(a) Department of property taxation.

(b) Department of processing and enforcement.

(c) Department of professional and support services.

(d) Office of revenue estimating and economic analysis.

13. Tourism cabinet:

(a) Department of travel development.

(b) Department of parks.

(c) Department of fish and wildlife resources.

(d) Kentucky horse park.

(e) State fair board.

(f) Office of administrative services.

(g) Office of general counsel.

III. Other departments headed by appointed officers:

1. Department of military affairs.

2. Department of personnel.

3. Council on higher education.

4. Department of local government.

5. Kentucky commission on human rights.

6. Kentucky commission on women.

Section 2. KRS 15.310 is amended to read as follows:

As used in KRS 15.310 to 15.510 and KRS 15.990 to 15.992, unless the context otherwise requires:

(1) "Council" means the Kentucky law enforcement council established by KRS 15.310 to 15.510 and KRS 15.990 to 15.992;[~~.~~]

(2) "Department" means the department of *criminal justice* training of the justice cabinet;[~~.~~]

(3) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;[~~.~~]

(4) "Secretary" means the secretary of the justice cabinet.

Section 3. KRS 15A.020 is amended to read as follows:

There is established within the cabinet a department of state police and a department of *criminal justice* training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers and duties as provided by law and as the secretary may prescribe.

Section 4. KRS 15A.070 is amended to read as follows:

(1) The department of *criminal justice* training shall establish, supervise and coordinate training programs and schools for law enforcement personnel, and any other justice or non-law enforcement related personnel as prescribed by the secretary.

(2) The department of *criminal justice* training shall make a continuing study of law enforcement training standards and upon request may furnish information relating to standards for recruitment, employment, promotion, organization, management and operation of any law enforcement agency in Kentucky.

(3) The department of *criminal justice* training shall conduct continuing research on criminal law and criminal justice subjects related to law enforcement training.

Section 5. KRS 15A.080 is amended to read as follows:

The Kentucky law enforcement council shall be attached to the office of the commissioner, department of *criminal justice* training for administrative purposes.

Section 6. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the department of *criminal justice* training or other courses approved by the justice cabinet after having completed the basic training course the first year of employment.

Section 7. KRS 350.052 is amended to read as follows:

(1) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall be empowered to arrest, without a warrant, any person detected by him to be violating the provisions of *this chapter* [~~KRS Chapter 350~~] which constitute criminal offenses.

(2) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall have the authority to use physical force, which he believes necessary, in accomplishing any lawful arrest for a criminal offense; however, deadly physical force may be used only when the officer is authorized to make an arrest, the arrest is for a felony involving the threatened use of physical force likely to cause death or serious physical injury, and the officer believes that the person to be arrested is likely to endanger human life unless arrested without delay.

(3) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall meet the qualifications set forth in KRS 61.300(1), (3) and (4) and shall prior to appointment:

(a) Successfully complete not fewer than eighty (80) hours of training in a program provided by the department of *criminal justice* training, justice cabinet, and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; *and*

(b) Demonstrate in written and practical examinations approved by the department of *criminal justice* training, justice cabinet, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid.

The Committee Amendment No. 1 to HB 239 is as follows:

Amend printed copy of HB 239:

On page 12, after line 13, by adding the following:

Section 8. The General Assembly hereby confirms Executive Order 85-165, issued March 1, 1985, which changed the name of the Justice Cabinet's Department of Training to "Department of Criminal Justice Training."

The Committee on Health and Welfare reported HB 52, HB 80, and HB 178 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to interstate compacts on subsidized adoptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds that:

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to KRS 199.555, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

(b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

(2) The purposes of this Act are to:

(a) Authorize the cabinet for human resources to enter into interstate agreements with agencies of other states for protection of children on behalf of whom adoption assistance is being provided by the cabinet for human resources; and

(b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources is authorized to develop, participate in the development of, negotiate and enter into one (1) or more interstate compacts on behalf of this state with other states to implement one (1) or more of the purposes set forth in this Act. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(2) For the purposes of this Act, the term "state" shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(3) For the purposes of this Act, the term "adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(4) For the purposes of this Act, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

A compact entered into pursuant to the authority conferred by this Act shall have the following content:

(1) A provision making it available for joinder by all states;

(2) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one (1) year between the date of the notice and the effective date of the withdrawal;

(3) A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode;

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and further, that any such agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents, and the state agency providing the adoption assistance; and

(5) Such other provisions as may be appropriate to implement the proper administration of the compact.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

A compact entered into pursuant to the authority conferred by this Act may contain provisions in addition to those required pursuant to Section 3 of this Act, as follows:

(1) Provisions establishing procedures and entitlements to medical, developmental, child care or other social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs thereof; and

(2) Such other provisions as may be appropriate or incidental to the proper administration of the compact.

SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) A child with special needs resident in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive a medical assistance identification from this state upon the filing in the office of the division for medical assistance, department for social insurance, cabinet for human resources, of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the division for medical assistance, department for social insurance, cabinet for human resources, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The division of medical assistance, department for social insurance, cabinet for human resources shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The division for medical assistance, department for social insurance, cabinet for human resources shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the department for social services, cabinet for human resources for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The cabinet for human resources shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a

fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

SECTION 6. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

Consistent with federal law, the cabinet for human resources, in connection with the administration of this Act and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The cabinet for human resources shall apply for and administer all relevant federal aid in accordance with law.

HB 80, AN ACT relating to subsidized adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.555 is amended to read as follows:

(1) For the purpose of this section, "hard-to-place children" means those children *with a special factor or condition such as ethnic background, age, membership in a minority or sibling group, or with significant emotional ties to long term foster parents, or the presence of factors such as medical conditions or physical, mental or emotional conditions because of which it is reasonable to conclude the child cannot be placed for adoption without a subsidy* [~~for whom adoptive homes are difficult to find because of a physical handicap, a mental condition, or the age of the child~~].

(2) If the secretary of the cabinet for human resources or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of such adoption, then funds may be paid to the adoptive parents after completion of the adoption of such child if the following conditions exist:

(a) The child is committed to the cabinet for human resources and the cabinet has authority to consent to the child's adoption; and

(b) The adoptive parents can give suitable care to the child if a subsidy is paid.

(3) The payments shall be out of funds appropriated to the cabinet and shall be in accordance with regulations promulgated by the secretary. Such payments shall not exceed the amount which would be paid for foster care for the child, and may include payment for extraordinary medical care.

(4) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

HB 178, AN ACT relating to missing children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a report of a missing child who was born in the Commonwealth, the justice cabinet, through the Kentucky missing child information center, shall notify the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child.

(2) If the justice cabinet has reason to believe that a missing child has been enrolled in a specific Kentucky elementary or secondary school, it shall notify the last such known school as to the child's disappearance.

(3) Upon learning of the recovery of a missing child, the justice cabinet shall notify the state registrar and any school previously notified of the child's disappearance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by the justice cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested the state registrar shall be alerted to the fact that the certificate is that of a missing child.

(2) Upon notification by the justice cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.

(3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the birth certificate except as approved by the justice cabinet.

(4) When a copy of a flagged birth certificate is requested in person, the state registrar or his designee accepting the request shall require the person making the request to complete a form supplying such person's name, address, telephone number, social security number and relationship to the missing child and the name, address, and birth date of the missing child. The driver's license of the person making the request, if available, shall be photocopied and returned to such person. The person shall be informed that a copy of the certificate will be mailed to him. The state registrar shall, upon the departure of the requesting person, immediately notify the justice cabinet as to the request and the information obtained pursuant to this subsection and shall forward a copy of the form completed by the person making the request for the missing child's birth certificate.

(5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the justice cabinet as to the request and shall provide a copy of the written request.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by the justice cabinet of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of such child in a manner that whenever a copy of or information regarding the child's record is requested, the school shall be alerted to the fact that the record is that of a missing child. The school shall immediately report to the justice cabinet any request concerning flagged records or any knowledge as to the whereabouts of any missing child.

(2) Upon notification by the justice cabinet of any missing child who has been recovered, the school shall remove the flag from the child's record.

(3) Upon enrollment of a student for the first time in any elementary or secondary school, such school shall notify in writing the person enrolling the student that within thirty (30) days the person must provide either:

(a) A certified copy of the student's birth certificate; or

(b) Other reliable proof of the student's identity and age and an affidavit of the inability to produce a copy of the birth certificate.

(4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the missing child information center and local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.

(5) With fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify the justice cabinet.

The Committee Amendment No. 1 to HB 178 is as follows:

Amend Printed copy of HB 178:

On page 2, line 17, by inserting a bracket after the word "*shall*" and by placing strikethrus through the following words: "*require the person making the*"

and by placing strikethrus through all words on lines 18, 19, 20, 21, 22 and 23

and on line 24 by placing strikethrus through the word "*be informed*" and by placing a bracket after the words "*be informed*"

and by inserting in front of the word "*that*" the following phrase: "*inform the person making the request*"

Senate Message

Announcing passage of SB 10.

Calendar

HB 63, HB 127, HB 109, HB 116, HB 4, HB 147, HCR 6, HB 11, HB 34, HB 37, HB 44, HB 188 and HB 179 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved that HB 35 be taken from the Clerk's desk and placed first in Orders of the Day. Agreed.

HB 35, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that HB 35 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 16, 1986, roll call on HB 35—Appendix A.)

HB 35 was passed and the title agreed to.

Representative Morris moved that the vote by which HB 35 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 74, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that HB 74 be passed.

Representative Turner moved that HB 74 be laid on the Clerk's desk. Rejected.

On the roll call the vote was: Yeas 49, Nays 47. (See January 16, 1986, roll call on HB 74—Appendix A.)

HB 74 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 74 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that HB 72 be passed.

On the roll call the vote was: Yeas 50, Nays 42. (See January 16, 1986, roll call on HB 72—Appendix A.)

HB 72 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 72 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that HB 65 be placed on the Clerk's Desk. Agreed.

HB 118, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that HB 118 be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See January 16, 1986, roll call on HB 118—Appendix A.)

HB 118 was passed and the title agreed to.

Representative J. Harper moved that the vote by which HB 118 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 68, with Committee Substitute attached thereto, taken from the Orders of the Day and Ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Substitute to HB 68. Agreed.

Representative Pearman moved that HB 68, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 16, 1986, roll call on HB 68—Appendix A.)

HB 68, by way of Committee Substitute, was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 68, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills: Representative Arnold, HB 19; Representative Bendl, HB 205; Representative Bennett, HB 142; Representative Burch, HB 142; Representative Cyrus, HB 19; Representative Deskins, HB 19; Representative Ford, HB 112; Representative Gray, HB 19; Representative Hancock, HB 30; Representative Keith, HB 105, HB 112; Representative Kerr, HB 10, HB 19; Representative Lefevers, HB 19; Representative Lile, HB 241, HB 348; Representative Noland, HB 105, HB 112; Representative Pearman, HB 126; Representative Siler, HB 105; Representative Smith, HB 315; Representative Stone, HB 19; Representative Todd, HB 105, HB 112; Representative White, HB 105, HB 112; Representative Williams, HB 105.

Representative McElroy moved that HB 31 be withdrawn. Agreed.

Representative Gray moved that he be recorded as voting "nay" on HB 74. Agreed.

Representative Gedling moved that HB 249 be withdrawn. Agreed.

Announcements

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 372, by Representatives O'Brien and Smith: AN ACT providing for a state fossil.

HB 373, by Representative Hines: AN ACT relating to education.

HB 374, by Representatives Gedling and Rose: AN ACT relating to the auditing of county clerks and making an appropriation therefor.

HB 375, by Representative Meyer: AN ACT relating to crimes and punishments.

HB 376, by Representative Blevins: AN ACT relating to the confidentiality of sexually transmitted disease.

HB 377, by Representatives Todd, Maggard, Noland, Ford, Farrow, Pritchett, Seum and Head: AN ACT relating to hunting and fishing.

HB 378, by Representatives Todd, Head, Noland, Ford, Farrow, Pritchett and Seum: AN ACT relating to hunting and fishing.

HB 379, by Representative Brinkley: AN ACT relating to law enforcement officers.

HB 380, by Representatives Bennett, Crupper, Farrow, Rapier, Lear, K. Harper, LeMaster, Bronger and McBee: AN ACT relating to jockey fees.

HB 381, by Representative O'Brien: AN ACT relating to health care.

HB 382, by Representatives Priddy, Yates, Holloway, P. Clark and Gedling: AN ACT relating to retirement credit for military service.

HR 30, by Representatives Blandford, Worthington, Rapier, Donnermeyer and Stumbo: A RESOLUTION adopting permanent rules of the House of Representatives.

HCR 31, by Representatives Freibert and K. Harper: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States for the purpose of requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

Report of Committees

The Committee on Health and Welfare reported HB 5, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) In any case in which a patient is in need of an organ for a transplant, the coroner, medical examiner, or his appropriately qualified designee may, upon the request of any person authorized under KRS 311.185, provide or authorize the removal of any organ from a decedent by a qualified physician under the following conditions:

(a) The decedent has been defined as a "coroner's case" as set forth by KRS 72.405(2), an autopsy has been ordered pursuant to KRS 72.410, and the organ is suitable for transplant;

(b) The removal of the organ will not interfere with the subsequent course of an investigation or autopsy;

(c) Consent has been obtained from the next of kin by the coroner or medical examiner when the decedent has not given all or any part of his body as provided in KRS 311.175.

(2) Any coroner, medical examiner, or his appropriately qualified designee, or any qualified physician shall not be held liable in any civil or criminal action for complying with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ procurement for transplant protocol which encourages organ donation and identifies potential organ donors.

(2) When an individual has been identified by hospital staff as having a terminal condition and is further identified as a potential organ donor, the hospital administrator shall then notify the regional organ transplant procurement and distribution organization of the potential availability of the organ.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The family of any individual whose organ is donated for transplantation shall not be financially liable for the cost of any medical care required to remove the organ.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

All physicians, nurses, and hospital personnel shall make every reasonable effort to convey to the appropriate hospital unit the intent of any hospitalized patient to make a donation of all or any part of his body, as provided in KRS 311.175, in order that necessary documents may be executed under the provisions of KRS Chapter 311.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Law enforcement and medical personnel involved with the investigation of accidents and coroners' cases shall make a reasonable effort to ascertain if the victim has elected to give all or any part of his body as provided in KRS 311.175 and shall make a reasonable effort to send that information on to the coroner, medical examiner, or hospital personnel.

Section 6. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility; or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employes which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employes which violates any provision of Sections 2, 3 or 4 of this Act shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of Section 2 of this Act shall be denied a license to operate under the provisions of KRS Chapter 216B.

The Committee Substitute to HB 5 is as follows:

HB 5, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ procurement for transplant protocol, in consultation with a federally certified organ procurement organization, which encourages organ donation and identifies potential organ donors.

(2) When an individual has died or has been identified by a medical hospital staff member as having a terminal condition and is further identified as a potential organ donor and meets the criteria set forth in the hospital's organ procurement for transplant protocol, the hospital administrator or his official designee shall then notify the federally certified organ procurement organization of the potential availability of the organ. The notification of the federally certified organ procurement organization as to the identity of a potential organ donor shall be documented in such patient's medical record. Any identified contraindication to organ donation shall be documented in the patient's medical record.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The family of any individual whose organ is donated for transplantation shall not be financially liable for any cost related to the evaluation of donor organ suitability and any cost of retrieval of the organ.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

All hospital physicians, nurses, and other allied health personnel shall make every reasonable effort to convey to the appropriate hospital unit the intent of any hospitalized patient to make a donation of all or any part of his body, as provided in KRS 311.175, in order that necessary documents may be executed under the provisions of KRS Chapter 311.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Law enforcement and medical personnel involved with the investigation of accidents and coroners' cases shall make a reasonable effort to ascertain if the victim has elected to give all or any part of his body as provided in KRS 311.175 and shall make a reasonable effort to send that information on to the coroner, medical examiner, or hospital personnel.

Section 5. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility; or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employes which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employes which violates any provision of Sections 1, 2 or 3 of this Act shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of Section 1 of this Act may be denied a license to operate under the provisions of KRS Chapter 216B.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: HB 16, HB 292, HB 290.

Appropriations and Revenue: HB 210, HB 259.

Natural Resources and Environment: HB 285.

Labor and Industry: HB 220.

Education: HB 287, HB 300, HB 306, HB 322.

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Natural Resources and Environment: HB 33, HB 95, HB 108, HB 104, HB 114, HB 121, HB 152, HB 201, HCR 5.

Representative Arnold moved that he be recorded as voting "yea" on HB 68. Agreed.

Announcements (continued)

Committee on Rules: On adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 17, 1986.

On the roll call the vote was yeas 69—Allen, Arnold, Bendl, Bennett, Blandford, Brinkley, M. Brown, Burch, Burnette, L. Clark, P. Clark, Crupper, Curd, Cyrus, Dawahare, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, Handy, J. Harper, Head, Holloway, Johnson, T. Jones, Kerr, Lefevers, LeMaster, Lile, Little, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 7—Blevins, Cowan, Holbrook, R. Jones, Overstreet, Seum, Williams.

The motion to adjourn was adopted.

FRIDAY, JANUARY 17, 1986

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald A. Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All Members present except Representative Jensen and McNutt.

Representative B. Richardson moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative B. Richardson moved that the reading of the Journal of January 16, 1986, be dispensed with and the same approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: HB 367.

Business Organizations and Professions: HB 380.

Cities: HB 366.

Counties and Special Districts: HB 368, HB 374, HB 379.

Education: HB 370, HB 373.

Health and Welfare: HB 369, HB 376.

Judiciary-Criminal: HB 375.

Labor and Industry: HB 356, HB 359, HB 360, HB 361, HB 362, HB 363, HB 364, HB 365.

Natural Resources and Environment: HB 377, HB 378.

State Government: HB 357, HB 358, HB 372, HB 381, HB 382, SB 10, HCR 31.

Transportation: HB 355, HB 371.

Report of Committees

The Committee on Rules reported HB 4, HB 34, HB 63, HB 109, HB 116, HB 127, HB 179 and HCR 6 have been posted for passage in Orders of the Day, January 21, 1986.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: HB 81, HB 10.

Cities: HB 265, HB 266, HB 181, HB 139, HB 140.

Transportation: HB 244.

State Government: HB 304.

Senate Message

Announcing passage of SB 20, SB 22, SB 24, SB 48, SB 107 and SCR 10.

Calendar

HB 94, HB 112, HB 30, HB 58, HB 199, HB 218, HB 222, HB 223, HB 228, HB 237, HB 239, HB 52, HB 80, HB 178 and HB 5, taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 23, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of the Committee Substitute to HB 23. Agreed.

Representative Curd moved that HB 23, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 17, 1986, roll call on HB 23—Appendix A.)

HB 23, by way of Committee Substitute, was passed and the title agreed to.

Representative Curd moved that the vote by which HB 23, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 48, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that HB 48 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 17, 1986, roll call on HB 48—Appendix A.)

HB 48 was passed and the title agreed to.

Representative Little moved that the vote by which HB 48 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 26, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that HB 26 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 17, 1986, roll call on HB 26—Appendix A.)

HB 26 was passed and the title agreed to.

Representative Mack moved that the vote by which HB 26 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that HB 49 be passed.

On the roll call the vote was: Yeas 73, Nays 5. (See January 17, 1986, roll call on HB 49—Appendix A.)

HB 49 was passed and the title agreed to.

Representative Hines moved that the vote by which HB 49 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 47, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that HB 47 be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See January 17, 1986, roll call on HB 47—Appendix A.)

HB 47 was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 47 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 174, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of the Floor Amendment No. 1 to HB 174. Agreed.

Representative Reinhardt moved that HB 174, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See January 17, 1986, roll call on HB 174—Appendix A.)

HB 174, as amended, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which HB 174, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 189, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that HB 189 be passed.

On the roll call the vote was: Yeas 82, Nays 6. (See January 17, 1986, roll call on HB 189—Appendix A.)

HB 189 was passed and the title agreed to.

Representative Heleringer moved that the vote by which HB 189 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 246, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that HB 246 be passed.

On the roll call the vote was: Yeas 73, Nays 13. (See January 17, 1986, roll call on HB 246—Appendix A.)

HB 246 was passed and the title agreed to.

Motions, Petitions and Communications

The following Floor Amendment was filed:

Floor Amendment No. 1 to HB 116, by Representative Long:

Amend printed copy of HB 116:

On page 1, line 17, after the word "corporation" by adding the words "*or partnership interest.*"

Representative Lile moved the adoption of the following Legislative Citations No. 10, 11 and 12:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the Valley High School Band and your excellent director, Lindy Casebier. Your tireless efforts, great ambition and leadership proved most rewarding as you captured the 1st place title of the Shelby County Band Contest, 2nd place at the Moore High School Band Contest and 3rd place at the Southern High School Band Contest. You have bestowed honor and pride on your school, community and the Commonwealth of Kentucky.

This prestigious body salutes and applauds you for this great distinction, extending best wishes and much success in your future endeavors. (Sponsored by Representative Lile)

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes you, LINDA HOUSE, for your sponsorship of the Pleasure Ridge Park High School cheerleaders as your leadership has proven most rewarding. This body commends you and your squad on winning awards and trophies at the Jefferson County Public Schools' high school cheerleading competition. You have bestowed honor and pride on your school, community and the Commonwealth of Kentucky.

The House of Representatives salutes and applauds you, LINDA HOUSE, for your dedication and hard work. (Sponsored by Representative Lile)

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes Rhonda Reesor, Catherine Colgate, Dennis Tharp, Dorothy Stiles, Thelma Ballard, Patricia Gibson, Hazel Brewster, Mable Carnes, Nancy Turner, William Turner, Jr., Robert Diehl, Mary House, Alice Bechtold, Janet Slayton, Eva Pence, Ruth Snodgrass, Charles Riggs, Theresa Bray, Christena Manna, John Wright, Kathleen Vick, James Vick, Sr., Evangaline Brummett, Nettie Hunter, Dan Hauner, Susan Holleman, Frankie Fields, Dawn Snyder, Freida Basham, Joan Gribbins, Jo Maynard, Louise Carwile, Cheryl Cahill, Susan Calhoun, Francie Lewis, Donna Johnson, Robert Hatfield, Margaret Fox, Charlene Diehl, Debbie Pfannenschmidt, Sharon Durham, Larry Durham, James Ledford, Anna Prince, Samuel Smith, Ernest Kline, Lillian Smith, Cytha Peacock, Pauline Loper, Frank Loper, Willa Lott, Ruth Brown, Lois Sullivan, Shirley Roy, Rosetta Rosenberger, Robert Collett, Sarah Lynch, Martin Lynch, Christie Pierce, Constance Shaw, Edith Mary Kline, Verda Vincent, Nina Garr and John Garr, Election Officers in the 28th Legislative District. Your hard work and dependability in serving your county and community in the November 1985 election was appreciated and exemplary of your citizenship.

This prestigious body commends you for your tireless efforts and dedication to public service. (Sponsored by Representative Lile)

Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 13:

The House of Representatives of the Commonwealth of Kentucky hereby commends you, W.P. FARRIS, for twenty-two years' service to the Finance and Administration Cabinet, Department for Facilities Management, Commonwealth of Kentucky. Your benevolent spirit has been reflected in the performance of your duties as Contracting Branch Manager. Your record of achievement during your tenure has been exemplary.

This prestigious body salutes and applauds you with profound appreciation for these years of service and extends our very best wishes to you. May your future endeavors be both meaningful and rewarding. (Sponsored by Representative Hancock)

Agreed.

Representative P. Richardson moved the reading of the following HCR 21:

HCR 21, A CONCURRENT RESOLUTION commending the Council of State Governments and adjourning in honor thereof.

WHEREAS, the Council of State Governments was founded in 1925 as a joint agency of all state governments, established, supported and directed by them; and

WHEREAS, the Council of State Governments strengthens state governments by improving administrative and managerial capability and performance; and

WHEREAS, the Council of State Governments promotes intergovernmental cooperation; and

WHEREAS, the Council of State Governments collects, processes, generates and disseminates information needed by all 50 states; and

WHEREAS, the Council of State Governments assists state governments in solving specific problems of policy formulation and operations; and

WHEREAS, the Council of State Governments serves as a catalyst and representative on issues and opportunities affecting the states; and

WHEREAS, the Council of State Governments offers staff services of research, surveys, and data search to legislators, state officials and the private sector; and

WHEREAS, the Council of State Governments maintains a collection of state government department and agency reports, as well as publishes numerous informational publications and reports; and

WHEREAS, formerly known as the American Legislators Association, the Council of State Governments and its 70 employes have been an important part of the Central Kentucky community since 1969; and

WHEREAS, the economic, social and cultural impact of the Council of State Governments housing its national headquarters in Lexington, Kentucky is immeasurable; and

WHEREAS, in 1984 several neighboring states made impressive overtures to the Council of State Governments in an attempt to lure this prestigious organization to move its national headquarters to their states; and

WHEREAS, the executive committee of the Council of State Governments voted to retain the national headquarters in Lexington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly of the Commonwealth of Kentucky hereby commends the exemplary services and information provided by the Council of State Governments.

Section 2. That the citizens of the Commonwealth are indebted to and appreciative of the Council's decision to retain its national headquarters in Lexington.

Section 3. That when this honorable body does adjourn this day, Friday, January 17, 1986, it does so in honor of the Council of State Governments.

Section 4. That the Clerk is directed to transmit a copy of this resolution to Mr. Carl W. Stenberg, Executive Director of the Council of State Governments, the members of the Executive Committee, and the Council's Site Selection Committee.

Representative P. Richardson moved that a call of the roll be taken to show co-sponsors of HCR 21. Agreed.

The following members requested that their names be added as co-sponsors of HCR 21: 88—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Napier, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt; Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, Williams, Worthington, Yates.

Representative P. Richardson moved the adoption of HCR 21.

On the roll call the vote was: Yeas 83, Nays 9. (See January 17, 1986, roll call on HCR 21—Appendix A.)

HCR 21 was passed and the title agreed to.

Representative P. Richardson moved the adoption of the following HR 22:

HR 22, A RESOLUTION adjourning the House of Representatives in honor of the University of Kentucky, Lexington Mayor Scotty Baesler and the Lexington-Fayette County Urban-County Council.

WHEREAS, the Council of State Governments is a joint agency of all state governments, established, supported and directed by them; and

WHEREAS, the Council of State Governments collects, processes, generates and disseminates information needed by all 50 states; and

WHEREAS, the Council of State Governments has been an integral part of the Central Kentucky community since moving its national headquarters to Lexington in 1969; and

WHEREAS, the support, resources and commitment of a community and its citizens are of paramount importance to the Council when selecting the site of its national headquarters; and

WHEREAS, in 1984 several neighboring states made impressive overtures to the Council of State Governments in an attempt to lure this prestigious organization to move its national headquarters to their states; and

WHEREAS, the University of Kentucky, Lexington Mayor Scotty Baesler and the Lexington-Fayette County Urban-County Council unselfishly dedicated countless hours reassuring the Council of State Governments of the commitment and support of the citizens of Lexington and the Commonwealth; and

WHEREAS, the executive committee of the Council of State Governments voted to retain the national headquarters in Lexington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House hails the exemplary role of the University of Kentucky, Lexington Mayor Scotty Baesler and the Lexington-Fayette County Urban-County Council in retaining the Council of State Governments national headquarters.

Section 2. That when this honorable body does adjourn this day, Friday, January 17, 1986, it does so in honor of the University of Kentucky, Mayor Scotty Baesler and the Lexington-Fayette County Urban-County Council.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to University of Kentucky President Otis Singletary, Mayor Scotty Baesler and the representatives serving on the Urban-County Council.

HR 22 was adopted by voice vote.

Representative Crupper moved the adoption of the following Legislative Citation No. 14:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, CHARLIE WEBSTER, Mayor of Carrollton, Kentucky for fourteen years of leadership and unselfish dedication to public service. You have been instrumental in your community's growth, industrial development, and other vital functions that have made your community a better place to live.

This prestigious body salutes and applauds you on your accomplishments and achievements during your successful years in office. (Sponsored by Representative Crupper)

Agreed.

Representative Hines moved that he be recorded as voting "yea" on HB 68, HB 72, HB 74. Agreed.

Representative Stumbo moved that the rules be suspended to act on Resolution. Agreed.

Representative Stumbo moved the adoption of the following HR 30:

HR 30, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Motions, Petitions and Communications.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.

2. To fix the time to which the House shall adjourn.

3. To adjourn.

4. To take recess.

5. To lay on the table.

6. For the previous question.

7. To limit or extend limits of debate.

8. To postpone to a fixed time.

9. To lay on the Clerk's Desk.

10. To refer or commit.

11. To amend.

12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with LRC to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employes. All the constitutional employes of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employes are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employes. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employes performing such services shall be under the supervision of the Committee on Committees.

No officer or employe of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employes of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employes and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Small Business

2. Appropriations and Revenue

3. Banking and Insurance

4. Business Organizations and Professions

5. Cities

6. Counties and Special Districts

7. Education

8. Energy

9. Health and Welfare

10. Judiciary-Civil

11. Judiciary-Criminal

12. Labor and Industry

13. Natural Resources and Environment

14. State Government

15. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee, except the Committee on Appropriations and Revenue which shall have not more than twenty-three (23) members, and the Committee on Education and the Committee on State Government which shall each have not more than twenty-one (21) members. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the state fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. *Appropriations and Revenue:* matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. *Banking and Insurance:* matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. *Business Organizations and Professions:* matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; trade practices.

5. *Cities:* matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. *Counties and Special Districts:* matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employes' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. *Education:* matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. *Energy:* matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; and gasohol.

9. *Health and Welfare:* matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; correctional penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care

of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10. Judiciary-Civil: matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, District Courts, the Court of Appeals, and Circuit Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries, attorneys; commissioners and receivers; and court reporters.

11. Judiciary-Criminal: matters pertaining to support of dependents; statutory actions and limitations; habeas corpus; witnesses; evidence; crimes and punishments; criminal procedure; civil rights; and juvenile matters.

12. Labor and Industry: matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

13. Natural Resources and Environment: matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

14. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; commonwealth attorney; circuit clerk; proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

15. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each.

1. Subcommittee on Development and Energy, Natural Resources, and Environmental Protection;

2. Subcommittee on Education;

3. Subcommittee on General Government, Finance, and Public Protection;

4. Subcommittee on Human Resources;

5. Subcommittee on Justice and Judiciary;

6. Subcommittee on Transportation.

Of the seven members of each such subcommittee four shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The remaining three members of each standing subcommittee shall be deemed a liaison subcommittee of the standing committee or committees from which they were appointed. A vice chairman of the standing committee from which such members were appointed shall act as chairman of the liaison subcommittee. The selection of such vice chairman shall be made by the Committee on Committees. If such three members have been appointed from more than one standing committee the Committee on Committees shall determine which standing committee vice chairman shall act as chairman of the liaison subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills[~~, provided that the amendment as agreed upon shall pertain to the same subject matter as the original bill referred to the Committee on Conference~~]. The conference report *shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and* shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a committee on conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a committee on free conference, consisting of three or more members. A committee on free conference shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order *on the same legislative day as* [~~within one hour following~~] distribution of copies of the report *together with a staff analysis of the report* to the members of the House.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employes required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. *Effective with the regular session of 1988, in the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.*

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced conform with the Automated Legal Text Entry and Revision System method of preparation. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52A. Local Mandate Impact Statement. Any bill which relates to any aspect of local government or any service provided thereby shall be analyzed by the LRC for its fiscal impact upon local governments and if determined to contain a local mandate shall have a local mandate impact statement attached prior to final consideration.

No measure which contains a local mandate shall be placed in the Orders of the Day until the local mandate impact statement is attached unless the requirement of the statement has been waived by a vote of two-thirds (2/3) of all members of the House/Senate.

Any member proposing to amend from the floor a bill which contains a local mandate or if the proposed amendment itself contains a local mandate, shall cause a fiscal analysis of the amendment to be made and a local mandate impact statement attached to the proposed amendment. Until such time as the local mandate impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 53. Proposed Administrative Regulations. (1) Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

(2) This amendment of the Rules of the House of Representatives shall apply only to bills introduced after February 5, 1980.

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House clerk shall so notify the clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the general assembly shall become effective upon sine die adjournment of the general assembly unless the general assembly in regular session shall disapprove the proposed regulation.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) The vote on the Consent Orders shall be taken by use of the Electrical Voting System.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final-Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 51 relative to fiscal analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a House bill under consideration containing the substantial text of the language of another bill shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of another bill the Speaker shall rule thereon, subject to appeal to the House.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff and so certified by the Clerk, endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the House bill, attested by the Clerk, before delivering the bill to the Enrolling Clerk of the House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House. [~~No roll-call vote shall be started until two minutes after the warning chimes have been sounded.~~]

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employes of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Lobbying in the House Chambers. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Rule 74. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employes of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desk and treated as litter.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 30 was adopted by voice vote.

Representative Stumbo moved that the vote by which HR 30 was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 383, by Representatives Scorsone and Johnson: AN ACT relating to adoption.

HB 384, by Representatives Cowan and Pearman: AN ACT relating to post-secondary education.

HB 385, by Representatives Richards, Mann, Lefevers and Moberly: AN ACT relating to textbooks for public elementary and secondary school pupils.

HB 386, by Representative Cowan: AN ACT relating to awards for higher education faculty and making an appropriation therefor.

HB 387, by Representative Rapier: AN ACT relating to alcoholic beverage control.

HB 388, by Representative Rapier: AN ACT relating to alcoholic beverage control.

HB 389, by Representative O'Brien: AN ACT relating to the county employes retirement system.

HB 390, by Representatives Cowan, Priddy, Johnson, Seum, Riner, Reinhardt, Kerr, Caldwell, Pritchett, Richards and Nett: AN ACT relating to crime victims and witnesses providing for their rights and protection.

HB 391, by Representative Gray: AN ACT relating to overtime for state employes.

HB 392, by Representatives Priddy, Seum, P. Clark, Yates and L. Clark: AN ACT relating to solid waste management.

HB 393, by Representatives Nett, Hines, Holloway and Guenthner: AN ACT relating to education.

HB 394, by Representatives Nett, Hines, Lile, Bennett, Priddy, Cowan, Burch, Yates, Riner, Seum, Bendl, Holloway, Guenthner and Handy: AN ACT relating to education.

HB 395, by Representatives Nett, Hines, Lile, Bennett, Priddy, Cowan, Burch, Yates, Riner, Seum, Holloway, Bendl, Handy and Guenthner: AN ACT relating to education.

HB 396, by Representative Mann: AN ACT relating to gifts to minors.

HB 397, by Representative T. Jones: AN ACT relating to tolls.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: HB 340, HB 288.

Banking and Insurance: HB 286.

Business Organizations and Professions: HB 143, HB 280.

Judiciary-Civil: HB 277, HB 240.

Judiciary-Criminal: HB 71, HB 77, HB 243, HB 344, HB 345, HB 346.

Agriculture and Natural Resources: HB 59.

Announcements

The following meetings were announced:

Committee on Education: Standing committee meeting postponed. Will meet on adjournment, January 21, 1986.

Committee on Judiciary-Civil: January 21, 1986, 12 noon.

Committee on Banking and Insurance: January 21, 1986, 10:00 a.m.

Committee on Education: Budget review, on adjournment, January 21, 1986.

Committee on Rules: On adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Tuesday, January 21, 1986.

On the roll call the vote was yeas 77—Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Bronger, M. Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Gedling, Gregory, Handy, J. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, Lile, Little, Long, Mack, Maggard, Mann, McBee, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, Worthington, Yates. Nays 2—Guenthner, LeMaster.

The motion to adjourn was adopted.

TUESDAY, JANUARY 21, 1986

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend J. Williamson Brown of the Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of January 17, 1986 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 399, by Representative Hancock: AN ACT relating to medical benefits for retirees and dependents.

HB 400, by Representatives Stumbo and Burch: AN ACT relating to reorganization.

HB 401, by Representatives McElroy and Burnette: AN ACT relating to soybeans.

HB 402, by Representative T. Jones: AN ACT relating to coroners.

HB 403, by Representative Clarke: AN ACT relating to health care.

HB 404, by Representatives T. Jones and Long: AN ACT relating to hearing impaired children and making an appropriation therefor.

HB 405, by Representative Burch: AN ACT relating to alcoholic beverage control.

HR 32, by Representatives Blandford, Stumbo, Donnermeyer, Worthington and Turner: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HR 33, by Representative Scorsone: A RESOLUTION in tribute to the late Reverend Martin Luther King, Jr.

Senate Message

Announcing passage of SB 73, SB 102 and SB 104.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: HB 387, HB 388.

Cities: SB 107.

Counties and Special Districts: HB 389.

Education: HB 384, HB 385, HB 386, HB 393, HB 394, HB 395.

Judicial-Civil: HB 383, HB 396.

Judicial-Criminal: HB 390.

Natural Resources and Environment: HB 392, SB 20, SB 22, SB 24, SB 48.

State Government: HB 391.

Transportation: HB 397.

Report of Committees

The Committee on Rules reported HB 5, HB 58, HB 178, HB 199, HB 218, HB 222, HB 223, HB 228, HB 237, HB 239, HB 37, HB 44, HB 147 and HB 188 have been posted for passage in Orders of the Day, January 22, 1986.

Report of Committees

The Committee on Labor and Industry reported HB 132, with Committee Amendment attached thereto, and HB 274, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 132, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, [~~including partners of a partnership owning a business,~~] whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employe if such owner *or* [~~,~~] owners[~~, or partners~~] elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners [~~or partners~~] to provide coverage for their employe, if any, required under this chapter.

(2) When an owner *or* [~~,~~] owners [~~or partners~~] have elected to be included as employes such shall be accomplished by the issuance of an appropriate endorsement to a workmen's compensation insurance policy.

Section 2. KRS 342.640 is amended to read as follows:

The following shall constitute employes subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employes whether paid by the employer or employe, if employed with the knowledge, actual or constructive, of the employer.

(2) Every executive officer of a corporation *and every partner of a partnership.*

(3) Every person in the service of the state or of any political subdivision or agency thereof, or of any county, city of any class, school district, drainage district, tax district, public or quasi-public corporation or other political entity, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties. Every person who is a member of a volunteer fire or police department shall be deemed for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly enrolled volunteer member or trainee of the civil defense corps of this state as established under KRS Chapter 39, shall be deemed for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky national guard, while said person is on active state service as defined in KRS 38.010(4) shall be deemed for the purposes of this chapter to be in the employment of this state.

(4) Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury.

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter such a person shall be deemed an employe of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of such independent agency, of each publisher whose newspapers he sells or distributes.

Committee Amendment No. 1 to HB 132 is as follows:

Amend printed copy of HB 132:

On page 1, lines 3, 4, 7, 11 and 13 by removing brackets and strikethroughs, and inserting the word *nonworking* before the word "partners" on lines 3, 7, 11 and 13.

On page 2, line 8, by inserting the word *working* before the word *partner.*

HB 274, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.030 is amended to read as follows:

(1) As used in this chapter, unless the context clearly requires otherwise, and except as provided in subsections (2) to (6) of this section, "wages" means all remuneration for services, including commissions, bonuses, and, except for services performed in agriculture and domestic employment, the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commission.

(2) Amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses, incurred on the business of the employing unit, constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the worker to his employer; provided, however, that the cash value of meals and lodging when furnished to the worker for the convenience of the employer shall not constitute wages.

(3) *For purposes of this chapter, the term "wages" includes tips which are* [~~Gratuities and tips customarily received by a worker in the course of his employment from persons other than his employing unit do not constitute wages but only if the employing unit does not~~]:

(a) *Received while performing services which constitute employment; and* [~~Determine the distribution; or~~]

(b) *Included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code; and*

(c) Shall be treated as having been paid by the employing unit [~~Take them into account to determine wages; or~~

~~(c) Impose or require such tips from other persons~~].

(4) "Wages" does not include the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employing unit that makes provision for its workers generally or for a class of its workers, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) Retirement;

(b) Sickness or accident disability;

(c) Medical and hospitalization expenses in connection with accident or sickness disability; or

(d) Death, if the worker has not:

61. The option to receive, instead of provision for such death benefit, any part of the payment, or if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit, and

2. The right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of it either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employing unit.

(5) "Wages" does not include the amount of any payment made by an employing unit without deduction from the remuneration of the worker of the tax imposed under section 3101 of the Internal Revenue Code or

any payment required from an employer under a state unemployment compensation law with respect to remuneration paid to an employe for domestic service in a private home of the employer or for agricultural labor.

(6) "Wages" does not, for the purposes of KRS 341.260 to 341.310, include that part of remuneration which, after wages equal to eight thousand dollars ($8,000) have been paid in a calendar year to a worker by a subject employer or his predecessor with respect to covered employment during any calendar year, is paid to such worker by such subject employer during such calendar year unless that part of the wages is subject to a tax under a federal law, imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purpose of this subsection, the term "covered employment" shall include service constituting covered employment under any unemployment compensation law of another state.

Section 2. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306(k) of the Internal Revenue Code, but only if such service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the immigration and nationality act;

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority but only if such service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;

(3) Service in the employ of an organization described in paragraphs (e) of subsection (1) of KRS 341.050 but only if such service is not defined as "covered employment" in paragraphs (e) and (h) of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions or municipalities or instrumentalities thereof but only if such service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official; or

(b) As a member of a legislative body of this state or a political subdivision thereof; or

(c) As a member of the judiciary of this state or political subdivision thereof; or

(d) As a member of the state national guard or air national guard; or

(e) As an employe serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(f) In a position which, under or pursuant to the state law is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week or by reason of service on any appointed state or local board or commission; or

(g) As a part-time staff employe of the general assembly, or any temporary, part-time or seasonal employe of the Commonwealth or political subdivision thereof if not required to be covered employment pursuant to Section 3309 of the Internal Revenue Code, as amended, as a requirement of Section 3304 of that code, as amended, for approval of the state's unemployment insurance law;

(5) Except as provided in paragraph (d) of subsection (1) of KRS 341.050 service performed in the employ of any other state or any political subdivision thereof, or of the United States government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities,

in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under section 3304 of the Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress. The secretary may enter into agreements with the proper agencies under such act of congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act of congress, or who have, after acquiring potential rights to unemployment compensation under such act of congress, acquired rights to benefits under this chapter;

(7) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

(8) Service performed in the employ of a foreign government (including service as a consular, or other officer or employe or a nondiplomatic representative), or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employes of the United States government or of an instrumentality thereof, and

(b) The secretary finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States government and of instrumentalities thereof;

(9) Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four (4) years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) Service performed by a worker under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business, or

(b) Such individual was regularly employed (as determined under paragraph (a) above) by such employing unit in the performance of such service during the preceding calendar quarter;

(13) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code (other than an organization described in section 401(a)), or under section 521 of the Internal Revenue Code, if the remuneration for such service is less than fifty dollars ($50);

(14) Service performed in the employ of an international organization;

(15) Service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of such election;

(16) Service performed in the employ of a school, college, or university, if such service is performed:

(a) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(b) By the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

2. Such employment will not be covered by any program of unemployment insurance;

(17) Service performed by an individual [~~under the age of twenty-two (22)~~] who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(20) Service defined in KRS 341.050(1)(d) and (e) performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or in a custodial or penal institution by an inmate of such institution.

Section 3. KRS 341.262 is amended to read as follows:

(1) Any employing unit [~~or any officer or agent of an employing unit~~] failing to *make and* file reports required under this chapter *on or before the due date of such reports* [~~within ten days after written notice sent by the division to the employing unit or to the officer or agent of the employing unit by certified mail~~] shall be subject, in addition to any other penalty provisions in this chapter to a penalty of *twenty-five* [~~ten~~] dollars *$25.00* [~~$10.00~~] for failure to file such reports. *Failure to file such reports by the last day of the month following the due date shall result in an additional penalty of fifty dollars ($50.00) being imposed upon the employing unit* [~~These penalties shall be collected in the same manner as provided for in KRS 341.300 and shall be paid into the same fund~~].

(2) The penalties provided for in subsection (1) of this section apply to the first failure of an employing unit to timely make and file required reports during a calendar year. If during the same calendar year the employing unit is again untimely in the making and filing of a like report, the employing unit shall be subject to the penalties provided for in subsection (1) of this section plus an additional penalty of one-hundred dollars ($100).

(3) The penalties provided for in subsections (1) and (2) of this section shall be collected in the same manner as provided for in KRS 341.300 and shall be paid into the same fund.

Section 4. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to *interest* [~~a penalty~~] at the rate of one *and five-tenths* percent *(1.5%)* [~~(1%)~~] per month or fraction thereof, not to exceed *ninety* [~~sixty~~] percent (90%) [~~(60%)~~] of the amount of such contributions, from and after

such date until payment is received by the department, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section *or is the subject of an administrative appeal or court action. Such interest* [~~These penalties~~] shall be paid into the unemployment compensation *administration* [~~contingent~~] fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions, *interest* or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including *interest and* penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workmen's compensation law.

(3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, *interest* and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions, *interest* or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 5. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work to return to work with his usual employer or to avoid imminent layoff (of which he has been given notice by his employer) by accepting other work, or for leaving work which was concurrent with his most recent work, or for leaving part-time work which preceded his most recent suitable work to accept such most recent suitable work *or for leaving work which is one hundred (100) road miles or more, as measured on a one-way basis, from his home to accept work which is less than one hundred (100) road miles from his home provided the work is a bona fide job offer with a reasonable expectation of continued employment.*

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the department for human resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; provided, however, that nothing in this subsection shall restrict the right of the secretary for human resources to disqualify a worker whose employer has refused or failed to notify the department for human resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the secretary for human resources prior to the time benefits

are paid to such worker; provided, further, that the exercise of such right by the secretary for human resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding such seasonal, intermittent or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include but not be limited to separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until such worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 6. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one and one hundred eighty-five one-thousandths of one percent (1.185%) of his total base-period wages, except that no worker's weekly benefit amount shall be less than twenty-two dollars ($22.00), nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty-five percent (55%) of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1.00), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year; except that for the benefit years beginning on or after July 1, 1982, if the "trust fund balance" as of December 31 immediately preceding the benefit year is less than one hundred twenty million dollars ($120,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate. *If such "trust fund balance" as of December 31 immediately preceding the benefit year:*

(a) Equals or exceeds one hundred twenty million dollars ($120,000,000), but is less than one hundred fifty million dollars ($150,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than six percent (6%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1.00);

(b) Equals or exceeds one hundred fifty million dollars ($150,000,000), but is less than two hundred fifty million dollars ($250,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than eight percent (8%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1.00);

(c) Equals or exceeds two hundred fifty million dollars ($250,000,000), but is less than two hundred seventy-five million dollars ($275,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than ten percent (10%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1.00).

(d) Equals or exceeds two hundred seventy-five million dollars ($275,000,000), but is less than three hundred fifty million dollars ($350,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve percent (12%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1.00); and

(e) Is such that it resulted in the establishment of an employer contribution rate schedule, as provided for in KRS 341.270, for the current calendar year which has a higher minimum rate and a higher maximum rate than the schedule in effect for the immediately preceding calendar year, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six (26) times his weekly benefit rate or (b) one-third (1/3) of his base-period wages, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1.00), shall be adjusted to the nearest multiple of one dollar ($1.00).

Section 7. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him, *or withhold funds based upon benefits paid under this chapter from awards granted to a worker by an arbitrator or the national labor relations board of additional pay, back pay, or for loss of employment,* or require or accept any waiver by a worker of any right hereunder.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary or his representatives. Any worker claiming benefits in any proceeding before the commission may represent himself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer.

(b) Any person appearing in any proceeding before the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392.

Section 8. KRS 341.613 is amended to read as follows:

(1) For calendar years 1984, 1985, [~~and~~] 1986, *1987 and 1988,* there is hereby created a surcharge upon subject employers for any year in which there are insufficient funds in the penalty and interest account as provided in KRS 341.295 for the payment of interest due on advances under Title XII of the Social Security Act received from the United States department of labor in support of the unemployment insurance program of the

Commonwealth. The surcharge shall be equal to the percentage derived from the benefits charged the individual reserve account of the subject employer for the year preceding the year in which such surcharge becomes payable divided by the total benefits charged the Kentucky employers' reserve accounts for the year preceding the year in which such surcharge becomes payable, times the difference of the annual interest payment minus the sum of seventy-five percent (75%) of the cash balance of the penalty and interest account plus the cash balance, if any, of the interest payment fund, except in no case shall an employer's surcharge be less than two dollars ($2.00). The secretary shall notify each employer of the dollar amount of its surcharge, if any, by July 1. Such amount shall be due and payable on July 31 and shall be in addition to any contributions due under any other section of this chapter.

(2) A surcharge unpaid on the date upon which it is due and payable, pursuant to subsection (1) of this section, shall be subject to interest at the rate of one and one-half percent (1 1/2%) per month or fraction thereof, not to exceed sixty percent (60%) of the amount of such surcharge, from and after such date until payment is received by the cabinet, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (3) of this section. These interest monies shall be paid into the unemployment insurance interest payment fund.

(3) If, after due notice, any subject employer defaults in any payment of surcharge or interest thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the worker's compensation law.

(4) At or after the commencement of an action under subsection (3) of this section attachment may be had against the property of the liable subject employer for such surcharge and interest without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(5) An action for the recovery of the surcharge or interest thereon under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such surcharge.

SECTION 9. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) If any check tendered to the cabinet in payment of any contribution or penalties due under this chapter or as restitution for the overpayment of benefits is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the party who tendered the check, upon notice and demand of the cabinet, an amount equal to ten (10) percent of such check. The penalty under this section shall not be less than ten dollars ($10.00) or more than one hundred dollars ($100).

(2) If the party who tendered the check demonstrates to the cabinet's satisfaction that failure to pay the check resulted from error by other parties, then the cabinet shall waive the penalty.

(3) Penalties collected under this section shall be credited to the unemployment compensation administration fund.

SECTION 10. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any subject employer assessed or determined liable for the payment of contributions, including penalties and interest, refuses to pay contributions when due and has not sought administrative or judicial review of the assessment or determination as provided for in this chapter, or if such subject employer has exhausted or abandoned administrative or judicial review provided in this chapter so that the assessment or determination is final, due and owing, then the secretary or his delegate may cause a demand to be made on the subject employer for the payment thereof. If the contributions, including interest and penalties, remain unpaid for ten (10) days after demand, then the secretary or his delegate may collect the contributions, including interest and penalties, and the costs of such collection by levy upon all non-exempt real and personal property, disposable earnings, and right to property, belonging to the subject employer or on which there is a lien provided in this chapter for the payment of such contributions.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the secretary or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The secretary or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. Such notice shall be published once each week for three (3) successive weeks. In addition, such notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the secretary or his delegate by sale of a part thereof to raise the whole amount of the contributions, penalty, interest and cost of the levy, the whole of such property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the secretary or his delegate may offer such items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The secretary or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the secretary or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin circuit court or the circuit court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the secretary, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(8) If the secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and, if the owner of the property can be readily found, the secretary or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner pays to the secretary or his delegate an amount equal to the appraised value, or gives bond in such form, with such sureties, and in such amount as the secretary or his delegate determines to be appropriate in the circumstances. If the owner does not pay such amount or furnish such bond in accordance with this subsection, the secretary or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than five (5) years after the assessment or determination becomes final.

(10) The term "levy" as used in Sections 10 through 16 of this Act includes the power of distraint and seizure. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or his delegate may levy upon property or rights thereto, he may seize and sell such property and rights to property, whether real, personal, tangible or intangible.

SECTION 11. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) Levy may be made with respect to any unpaid contributions including penalties and interest only after the cabinet has given notice and demand to the subject employer in writing of the intention to make such levy. Such

notice and demand shall be given in person, or shall be sent by certified mail to the employer's last known address, no less than ten (10) days before the date of levy.

(2) (a) The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time; and

(b) With respect to a levy described in paragraph (a) of this subsection, the cabinet shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time and shall promptly notify the person upon whom such levy was made that such levy has been released.

SECTION 12. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the secretary or his delegate, surrender such property or rights or discharge such obligation to the secretary or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of contributions, interest and penalties for the collection of which such levy has been made, together with costs and interest on such and at the rate of fifteen percent (15%) per annum from the date of such levy. Any amount other than costs recovered under this subsection shall be credited against the subject employer's liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the secretary or his delegate, surrenders such property or rights to property or discharges such obligation to the secretary or his delegate shall be discharged from any obligation or liability to the delinquent employer with respect to such property or rights to property arising from such surrender or payment.

SECTION 13. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) Any employer whose property has been levied upon shall have the right to pay the amount due, together with the expense of the proceeding, to the secretary or his delegate at any time prior to the sale thereof and upon such payment the secretary or his delegate shall cause such property to be restored to him and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(2) The owner of any real property sold as provided in Section 10 of this Act, his heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in his behalf, shall be permitted to redeem the real property sold or any particular tract of such property, at any time within one hundred twenty (120) days after the date of the sale. Such property or tract of property shall be permitted to be redeemed only upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the secretary or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of twenty percent (20%) per annum from the date of sale.

(3) In the case of property sold pursuant to Section 10 of this Act the secretary or his delegate shall give to the purchaser certificate of sale upon payment in full of the purchase price. The certificate shall set forth a description of the property purchased, for whose contributions the property was sold and the price paid therefor.

(4) In all cases where property is sold pursuant to Section 10 of this Act, except real property, the certificate of sale issued pursuant to subsection (3) of this section shall have the following effect:

(a) Shall be prima facie evidence of the rights of the secretary or his delegate to make such sale, and of the regularity of the proceeding of the sale;

(b) Shall transfer to the purchaser all right, title and interest of the subject employer in and to the property sold;

(c) If such property consists of stock, shall be notice when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the

transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any prior certificate, which shall be void, whether cancelled or not;

(d) If the subject of sale is securities or other evidence of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(e) If such property consists of a motor vehicle, shall be notice, when received by any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior title, which shall be void, whether cancelled or not.

(5) In the case of any real property sold pursuant to Section 10 of this Act and not redeemed in the manner and within the time provided in subsection (2) of this section, the secretary or his delegate shall execute in accordance with the laws of the Commonwealth, to the purchaser of such real property upon surrender of the certificate of sale, a deed to the real property so purchased by him, reciting the facts set forth in the certificate. The deed executed pursuant to this subsection shall have the following effect:

(a) Shall be prima facie evidence of the rights of the secretary or his delegate to make such sale, and of the regularity of the proceedings of the sale; and

(b) If the proceedings of the secretary or his delegate have been substantially in accordance with the provisions of Section 10 of this Act, such deed shall be considered and operate as a conveyance of all right, title and interest the employer has in and to the real property thus sold at the time the lien of the Commonwealth attached thereto.

(6) A certificate of sale of personal property given or a deed to real property executed pursuant to this section shall discharge such property from all liens, encumbrances, and titles over which the lien of the Commonwealth, with respect to which the levy was made, had priority.

SECTION 14. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) It shall be lawful for the secretary or his delegate, under administrative regulations prescribed by the secretary, to release all or part of the property or rights to property levied upon where the secretary or his delegate determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.

(2) If the secretary or his delegate determines that property has been wrongfully levied upon, it shall be lawful for the secretary or his delegate to return the specific property levied upon or an amount of money equal to the amount of money received by the Commonwealth from a sale of such property.

(3) Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of four (4) years from the date of such levy.

SECTION 15. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) If a levy has been made or is about to be made on any property or right to property, any person having custody or control of any books or records containing evidence or statements relating to the property or right to property subject to levy shall, on demand of the secretary or his delegate, exhibit such books or records to the secretary of his duly authorized representative.

(2) The secretary or his delegate may make copies of such books or records at the cabinet's expense.

SECTION 16. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) When the cabinet reasonably believes that any employer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any contributions assessed or to be assessed by the cabinet or declared by the employer on a report filed with the cabinet, any transferee of such property may be assessed by the cabinet an amount equal to the lesser of the amount of contributions assessed against the transferor employer or the fair market value of the property so transferred. However, no assessment shall be made

pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless such transferee had notice of the intent of the transferor employer to hinder or evade the collection of any contributions.

(2) Any assessment made by the cabinet against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the contributions for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

(a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor employer; and

(b) In the case of the liability of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor employer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

SECTION 17. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

All fines, penalties and interest on delinquent contributions collected under Sections 10 through 16 of this Act shall be credited to the unemployment compensation administration fund to be used for the administration of this chapter.

The Committee on Transportation reported **HB 292** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 292, AN ACT relating to handicapped parking privileges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.456 is amended to read as follows:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, or any person with a severe respiratory ailment, the county clerk in the county of such person's residence shall issue the handicapped person a special parking permit. The special parking permit issued shall bear the universal handicapped symbol and such permit shall contain the handicapped person's name, the special parking permit number and such other information as the transportation cabinet may by regulation require.

(2) The annual fee payable to the county clerk for a special parking permit shall be two dollars ($2.00) and such permit shall expire on June 30. The application shall be made on a form prepared by the transportation cabinet. Permits shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and permits issued.

(3) For every person seeking a special handicapped parking permit, proof of such handicap shall be required by:

(a) Evidence that the individual has a license plate for a disabled veteran as provided by KRS 186.041 or KRS 186.042; [~~or~~]

(b) The county clerk issuing the permit ascertaining that the applicant is obviously handicapped; or

(c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration or perceptiveness is significantly reduced by a permanent or temporary disability to that person's arms, legs, lungs or eyes.

(4) No unauthorized person shall knowingly possess a special parking permit for the handicapped.

(5) False application for a special parking permit shall constitute a violation of KRS 523.100.

(6) When a motor vehicle *which is being operated by or for the benefit of the handicapped person is* displaying an auto registration plate as provided in KRS 186.042, an out of state handicapped registration plate, *a handicapped parking permit issued by any veterans' administration hospital* or a special parking permit issued to a handicapped person as prescribed in this section [~~is being operated by or for the benefit of the handicapped person~~], the motor vehicle may be parked in a designated handicapped parking place. When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a designated handicapped parking area in a motor vehicle not displaying either a handicapped auto registration plate as provided in KRS 186.042 or an out of state handicapped registration plate on the rear of the vehicle unless he displays on the rear view mirror of his motor vehicle a special parking permit issued to the handicapped. No person shall park a vehicle displaying a special parking permit in a designated handicapped parking area when such vehicle is not being used for the benefit of a handicapped person.

(7) No unauthorized person shall knowingly possess a transferable decal for the handicapped.

(8) No person shall make, issue, possess, or knowingly use any imitation or counterfeit of a transferable decal for the handicapped.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: HB 149.

Health and Welfare: HB 255, HB 271, HB 327, HB 41.

Orders of the Day

HB 13 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved that HB 13 be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 21, 1986 roll call on HB 13 - Appendix A.)

HB 13 was passed and the title agreed to.

Representative McNutt moved the vote by which HB 13 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that HB 4 be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See January 21, 1986, roll call on HB 4 - Appendix A.)

HB 4 was passed and the title agreed to.

Representative Hines moved that the vote by which HB 4 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 63 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that HB 63 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 21, 1986 roll call on HB 63 - Appendix A.)

HB 63 was passed and the title agreed to.

Representative Crupper moved that the vote by which HB 63 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 109, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved the adoption of the Committee Amendment No. 1 to HB 109. Agreed.

Representative Richards moved that HB 109 as amended be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 21, 1986 roll call on HB 109 - Appendix A.)

HB 109, as amended, was passed and the title agreed to.

Representative Cline moved that vote by which HB 109 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 116, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Floor Amendment No. 1 to HB 116. Agreed.

Representative Long moved that HB 116, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See January 21, 1986, roll call on HB 116 as amended - Appendix A.)

HB 116, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which HB 116, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 127 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that HB 127 be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 21, 1986, roll call on HB 127 - Appendix A.)

HB 127 was passed and the title agreed to.

Representative Crupper moved that the vote by which HB 127 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 179, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Amendment to HB 179. Agreed.

Representative Stumbo moved that HB 179, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See January 21, 1986, roll call on HB 179 as amended - Appendix A.)

HB 179, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 179 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 6 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that HCR 6 be passed.

On the roll call the vote was: Yeas 85, Nays 6. (See January 21, 1986, roll call on HCR 6 - Appendix A.)

HCR 6 was passed and the title agreed to.

Representative Lear moved that the vote by which HCR 6 was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act on a Resolution. Agreed.

Representative Stumbo moved the adoption of the following HR 32.

HR 32, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform her that the General Assembly is prepared to receive any message she may care to deliver.

HR 32 was adopted by voice vote.

Speaker Blandford appointed the following committee to wait upon the Governor.

Representatives Hancock, McNutt, Long and Brinkley.

Motions, Petitions and Communications

Representative LeMaster moved the adoption of the following SCR 10:

SCR 10, A CONCURRENT RESOLUTION commending the Council of State Governments and adjourning in honor thereof.

WHEREAS, the Council of State Governments was founded in 1925 as a joint agency of all state governments, established, supported and directed by them; and

WHEREAS, the Council of State Governments strengthens state governments by improving administrative and managerial capability and performance; and

WHEREAS, the Council of State Governments promotes intergovernmental cooperation; and

WHEREAS, the Council of State Governments collects, processes, generates and disseminates information needed by all 50 states; and

WHEREAS, the Council of State Governments assists state governments in solving specific problems of policy formulation and operations; and

WHEREAS, the Council of State Governments serves as a catalyst and representative on issues and opportunities affecting the states; and

WHEREAS, the Council of State Governments offers staff services of research, surveys, and data search to legislators, state officials and the private sector; and

WHEREAS, the Council of State Governments maintains a collection of state government department and agency reports, as well as publishes numerous informational publications and reports; and

WHEREAS, formerly known as the American Legislators Association, the Council of State Governments and its 70 employes have been an important part of the Central Kentucky community since 1969; and

WHEREAS, the economic, social and cultural impact of the Council of State Governments housing its national headquarters in Lexington, Kentucky is immeasurable; and

WHEREAS, in 1984 several neighboring states made impressive overtures to the Council of State Governments in an attempt to lure this prestigious organization to move its national headquarters to their states; and

WHEREAS, the executive committee of the Council of State Governments voted to retain the national headquarters in Lexington;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the General Assembly of the Commonwealth of Kentucky hereby commends the exemplary services and information provided by the Council of State Governments.

Section 2. That the citizens of the Commonwealth are indebted to and appreciative of the Council's decision to retain its national headquarters in Lexington.

Section 3. That when this honorable body does adjourn this day, Friday, January 17, 1986, it does so in honor of the Council of State Governments.

Section 4. That the Clerk is directed to transmit a copy of this resolution to Mr. Carl W. Stenberg, Executive Director of the Council of State Governments, the members of the Executive Committee, and the Council's Site Selection Committee.

SCR 10 was adopted by voice vote.

Representative Scorsone moved that the rules be suspended to act on a Resolution. Agreed.

Representative Scorsone moved the adoption of the following HR 33:

HR 33, A RESOLUTION in tribute to the late Reverend Martin Luther King, Jr.

WHEREAS, the birthday of the Reverend Martin Luther King, Jr. was observed yesterday as a national holiday for the first time; and

WHEREAS, Martin Luther King, Jr. is generally regarded as having been the nation's most effective and influential civil-rights leader; and

WHEREAS, Martin Luther King, Jr. was widely revered as an apostle of non-violence, and is so honored in memory today; and

WHEREAS, this great American did not speak in vain, he did not march in vain, he did not die in vain;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors the memory of the Reverend Martin Luther King, Jr.

Section 2. That when the House adjourns this day, January 21, 1986, it does so in tribute to the memory of Martin Luther King, Jr.

Section 3. That a copy of this resolution be sent to Mrs. Coretta Scott King.

HR 33 was adopted by voice vote.

Motions, Petitions and Communications (cont'd)

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

Representative M. Brown, HB 30; Representative Bruce, HB 109; Representative Burnette, HB 30; Representative L. Clark, HB 382; Representative P. Clark, HB 19; Representative Cline, HB 24; Representative Curd, HB 19; Representative Ford, HB 300; Representative Heleringer, HCR 31; Representative Holbrook, HB 109; Representative Keith, HB 109; Representative Lear, HR 22; Representative Little, HB 19; Representative Lyne, HB 105, HB 109; Representative McElroy, HB 105; Representative Morris, HB 109; Representative Noland, HB 315; Representative Preston, HB 19, HB 285; Representative Riner, HB 19; Representative Rose, HB 109; Representative Scorsone, HB 19; Representative Seum, HB 105; Representative Smith, HB 150, HB 154; Representative Stone, HB 154; Representative Thomas, HB 19.

The following member filed a request to have his name withdrawn as a co-sponsor: Representative Barrows, HB 138.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 406, by Representative Moberly: AN ACT relating to water.

HB 407, by Representative Barrows: AN ACT relating to school taxes.

HB 408, by Representative Barrows: AN ACT relating to the utility gross receipts license tax.

HB 409, by Representative Barrows: AN ACT relating to state ad valorem taxes.

HB 410, by Representative Barrows: AN ACT relating to property tax.

HB 411, by Representatives Barrows and Farrow: AN ACT relating to property valuation administrators.

HB 412, by Representative Seum: AN ACT relating to motor vehicle operators' licenses.

HB 413, by Representatives Cowan and Seum: AN ACT relating to the crime victim compensation fund.

HB 414, by Representative Little: AN ACT relating to surface coal mining.

HB 415, by Representative Cowan: AN ACT relating to the sales and use tax.

HCR 34, by Representative Barrows: A CONCURRENT RESOLUTION directing the legislative research commission to contract with an outside consultant to study the feasibility and educational soundness of providing a year round school calendar.

HJR 35, by Representatives J. Harper, Turner, K. Harper, Lile, Siler, Bruce, Richards, Morris, Stone, Brinkley, M. Brown, Preston, McElroy, Seum, Cowan, Johnson, Riner, Burnette, Layman, Williams, Allen, Napier, Stewart, Lefevers, Freibert, Ford, Noland, Reinhardt, Keith, Caldwell, Hancock, Bennett, Strong, Burch and Jensen: A JOINT RESOLUTION directing the Legislative Research Commission to study the safety of the Commonwealth's major airports and state office buildings from acts of terrorism.

Motions, Petitions and Communications (Continued)

The following Floor Amendments were filed:

Floor Amendment No. 1 to HB 178, by Representative Burch:

Amend printed copy of HB 178:

On page 3, line 2,

by deleting the phrase "*and shall forward a copy of*";

And by deleting line 3 in its entirety;

And on line 4,

by deleting the following phrase: "*the missing child's birth certificate*"

Floor Amendment No. 1 to HB 274, by Representative Farrow:

Amend printed copy of HB 274:

On page 37, by deleting lines 21, 22, 23, and 24 and by inserting in lieu thereof the following:

(3) Property shall be returned immediately. If such property is not returned immediately, or if such proceeds of sale are not returned immediately, then the owner of such property shall have a period of four (4) years in which to initiate action for its return.

Floor Amendment No. 1 to HB 34, by Representative Mann:

Amend printed copy of HB 34:

On page 5, line 17, after the word "*misdemeanor,*" by adding the words, "*establishing a pattern.*"

On page 8, line 6, after "*(e)*", by adding the words "*Establishing a pattern of.*"

Floor Amendment No. 1 to HB 199, by Representative Cyrus:

Amend printed copy of HB 199:

On page 1, line 8, by adding the following after "*agency.*":

The proceeds from the sale of the handgun shall be deposited to the credit of an agency account for the issuing agency and shall be used for the purpose of purchasing replacement firearms.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: HB 73.

Labor and Industry: HB 198, HB 340, HB 356, HB 359, HB 360, HB 361, HB 362, HB 363, HB 364, HB 365.

Banking and Insurance: HB 296, HB 332, HB 367.

State Government: HB 172, HB 8, HB 235, HB 134, HB 268, HB 270, HB 110, HB 158, HB 60.

Judiciary-Criminal: HB 390.

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Natural Resources and Environment: HB 99.

Announcements

The following meetings were announced:

Committee on Cities: January 22, 1986, 8:45 a.m.

Committee on Education: On Recess, January 21, 1986.

Committee on Natural Resources and Environment: Budget Review, January 22, 1986, 12 Noon, Room 103.

Committee on Education: Budget Review, January 22, 1986 4:00 p.m. Higher Education.

Budget Review, Subcommittee on General Government, 8:00 January 22, 1986.

Committee on Counties: January 22, 1986, Room 104, 12 noon.

Rules on recess: State Reception.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Honorable Steven L. Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Prayer by Dr. Donald Nunnelly, First Christian Church, Frankfort.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like committee of the Senate to wait upon the Governor and escort her to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Steven Beshear introduced the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky.

Governor Collins addressed the Joint Session of the General Assembly as follows:

GOVERNOR MARTHA LAYNE COLLINS
Budget Message
State Capitol
January 21, 1986

Tonight, I present a budget that builds on Kentucky's enduring strengths and on the promise of a new age. My budget affirms our faith in our people and in their ability to chart a more prosperous course for the future. It welcomes the possibilities that lie ahead of us. Because of our advances in education, because of our breakthroughs in economic development we're in a position to make unprecedented strides toward new and better opportunities for all Kentuckians.

My budget positions us even more favorably. It recognizes these twin truths: Our greatest hope is education, our greatest need is jobs.

My budget is built on the knowledge that these two—jobs and education—are more strongly linked than ever. It will move us ahead in elementary and secondary education and in higher education. My budget will produce more jobs.

The times demand that Kentucky expand and strengthen its economic foundations, that we further diversify to provide more alternatives for our people. And my administration—through this budget and through other policies—will continue to pursue every avenue toward that end.

The time is right, we have the opportunities and this budget turns them to our advantage.

In addressing jobs and education and the other vital issues of the day my budget carefully gauges revenue against needs. Consistently, whether in our colleges and universities, in Tourism, in Commerce, consistently, in every institution, in every agency my budget targets money to give the greatest returns for our citizens.

With this budget we sustain the momentum that has moved Kentucky into a new economic age. With this budget we confront the needs of today and build a stronger foundation for tomorrow.

We accomplish all of this without a broadbased tax increase. And when I leave office the General Fund will enjoy a surplus.

Yet with this budget we will achieve significant progress in a number of areas. For example, we will increase state support for prenatal care by 83 percent. We will increase per capita direct aid for public libraries by 78 percent. We will establish a Commerce office in Europe.

To create more jobs in Kentucky's fastest growing industry we will triple our advertising dollars in Tourism. To develop technology that can increase demand for Kentucky coal we will fulfill our commitment to our new fluidized bed combustion plant.

Our universities will take a significant step toward full funding of the formula. A Robotics Institute will enable them to participate in the research and development that we must have to create new jobs. We'll also establish a mechanism so our universities can attract more research money from the federal government.

To make the Kentucky Horse Park a thoroughbred among America's parks I'm proposing significant improvements. I'll dramatically expand Home Care services for the elderly. This budget reinstates the 5 percent annual increment for state employees. I'll ask you to approve and fully fund the juvenile code. And we will fully fund and improve the teacher's retirement program.

We've come a long way in two years. When the General Assembly convened in January of 1984 Kentucky had yet to come out of a recession. Then, we could speak only wistfully of a surplus. Today, because of prudent management and economic growth we have a surplus.

It has been a cooperative effort. The 1984 General Assembly limited General Fund spending for all of state government to just 2 percent growth in fiscal year 1985. My administration managed within these limits last year.

Now, without economy growing steadily, with revenue matching or exceeding our estimates our budget outlook is far better than in the past eight years.

For this budget we took as our base not the 1986 appropriations but rather the 1985 expenditures. We scrutinized that base for every agency, every institution. I wanted to ensure that base year figures were not inflated by one-time expenditures or discretionary spending. By taking this approach we were able to make certain that money would go for the most important services and priorities.

The current budget limited the salary increment for state employees to three percent this year. Most state agencies received about six percent more money in 1986 than in 1985. The difference between that three percent and the six percent provided substantial leeway for our careful management to gain dollars. A low inflation rate less than four percent also helped.

We have adhered closely to the budget guidelines issued by the General Assembly last summer. In most cases we confined continuation budgets to about three percent.

We maintained the level of services without reducing the number of personnel. I directed my staff to treat every request equitably and fairly. At the same time I told them to make certain every new dollar was justified to make sure the money we recommend can be responsibly used.

Taking this approach not everyone comes out of the budget with more money. Following these guidelines we have crafted a budget that builds on our strengths and concentrates our resources to produce results.

REVENUE

Our revenues this fiscal year are meeting the Revenue Cabinet's projections released last October as we were confident they would. At a minimum we will meet the current year Revenue estimate.

Secretary Gillis has advised me that our growth estimates for the General Fund are consistent with those of national economic experts as well as with those of the Legislative Research Commission's own economic consultants. They are supported by collections to date in the current fiscal year, collections that once again point out the reliability of my administration's projections.

As we approach this budget I appreciate the spirit of cooperation the General Assembly has shown. Our determination to work together was nowhere better demonstrated than during last summer's Special Session. Never before had members of the General Assembly participated so fully in the development of an historic program for the state. Your ideas and suggestions and the needs of your constituents are also incorporated in the budget I present tonight.

Many of you had a direct hand in formulating these proposals. You served on various advisory groups I appointed work on specific problems. I thank you for your efforts there.

And I thank the hundreds of other officials and citizens who devoted their time to confront the issues of the day.

As a result of turning our energies toward resolving these problems and because of our revenue outlook, I am confident that the budget I am about to detail is an effective instrument of progress. It reflects my strongly held views about the economic transition Kentucky is experiencing and my strongly held convictions about the actions we must take today to reach a more prosperous tomorrow.

THE BUDGET

EDUCATION

To further our advances in education made in the 1984 regular Session and since then I recommend full funding of the improvements enacted in last summer's Special Session. At that time we pledged to return here to provide the money necessary for the Educational Improvement Program. For this program my budget includes an increased appropriation of $131 million in 1987 and $141 million in 1988.

It also includes all the important reform and accountability measures that mean our children will be getting more education for each of those dollars.

I'm asking for funds to reduce class size in grades 1-3 and 4-6. I'm asking for money for Teacher Aides in Kindergarten where individual attention is so vital to learning. Our Writing Program reflects my conviction that writing is a powerful learning tool and cultivates critical thinking.

The Power Equalization Program we envisioned last summer will cost $55 million over the upcoming biennium. Included in that amount is an additional $15.9 million based on the most recent calculation of assessed property value throughout our state. This will allow us to equalize 10 cents in 1987 and 13 cents in 1988. Our improvements in this program reaffirm our commitment to the fundamental principle that the quality of education available to a child should not depend on where that child lives.

My budget provides incentives for our dedicated teachers to remain in the classroom.

These and many other initiatives set our schools moving in the right direction.

To strengthen the beginning we have made with the Educational Improvement Program I am offering other measures as well.

We will strengthen the Minimum Foundation Program. Each year of the biennium we will increase by 4.5 percent the allotment to local school districts for current operating expenses. These increases will give local school districts the financial flexibility to meet their new and expanded responsibilities. My budget also includes funds for an additional 200 exceptional children units in the Foundation Program in each year of the biennium. These units are in addition to the 75 in 1987 and 150 in 1988 provided for in our Education Improvement Program.

In my Capital budget we fulfill our commitment to elementary and secondary local school construction authorized by bonds during the Special Session.

Retired Teachers

Among the incentives to attract and keep good teachers in the classroom is a sound retirement system. And when teachers retire they must be confident that we will fulfill our commitment to them.

To that end my budget includes $162.7 million in 1987 and $169.1 in 1988 to fully fund and improve the state's retirement program for teachers. In the 1987 amount I include an additional $33 million in General Fund support—a 25 percent increase. A temporary shortfall in the General Fund appropriation to the retirement system during the present biennium has been made up. I propose substantial increases in minimum retirement payments to teachers who taught many years ago at very low salaries. The General Fund will share the cost of providing health care to retired teachers by increasing state contributions. The pensions of retired teachers will be increased in accordance with a cost of living adjustment.

Vocational and Technical Education

My budget includes $4.6 million for improvements in adult and vocational/technical education. These funds will help establish advanced technology centers, upgrade equipment, provide remedial instruction, strengthen staff development and will be directed to programs to raise the general educational level of adults.

America's economic transition and its requirements for new skills among our workforce demand that we consolidate educational services for Kentucky's adults. Crucial to our commitment in this regard is the creation of a state board to govern Adult and Vocational Technical education. This board will eliminate the current fragmented use of resources and provide an efficient, unified effort to address the educational needs of Kentucky's adults.

Libraries

My budget also recognizes our public libraries as vital educational resources. It has been eight years since a Governor and General Assembly last increased state aid for public libraries. I recommend an increase in direct cash assistance to local public libraries from the present 14 cents per capita direct aid to 25 cents in each year of the biennium, a 78 percent increase.

With the beginning we've made in education we are moving toward a school system worthy of our children's hopes and dreams. To give them that system will require sustained commitment from future Governors, from future Legislators. It will take local people being involved in local schools. It will also require that we move ahead in higher education.

HIGHER EDUCATION

Our universities are invaluable as we move into a new economic age.

And they will become increasingly valuable because this is an age in which knowledge and information are the driving forces behind the transformations we see occurring around us in business, industry, communications, in every area of life.

I propose major improvements in formula funding, in research and in capital construction.

I am recommending an additional $70 million in general fund appropriations over the biennium. I also propose $117 million in new construction, deferred maintenance and equipment.

I am proposing that over a two year period we advance to a level of funding equal to 90 percent of the formula. This is a major commitment to our universities to Kentucky's future. As a first step toward this unprecedented level of support I am recommending an increase of $24.3 million in fiscal 1987. To reach 90 percent in 1988 I am recommending an additional $29.5 million beyond that.

This will enable our universities to address a number of needs, among them, our ability to attract and keep the best and brightest faculty. Along this line I am recommending $4 million each year of the biennium for a salary incentive fund to further encourage excellence in the classroom.

I am also recommending several carefully targeted investments at our universities to ensure that they can move forward as our full . . . and necessary partners.

My budget will support the following catalysts for excellence:

I propose $3.7 million in fiscal year 1988 for Commonwealth Centers at five of our campuses.

This initiative will present a unique opportunity for some of our most creative students and faculty to work together in a rigorous academic environment.

To endow faculty chairs at these centers of excellence I propose $2 million in fiscal year 1988.

I am also calling for $1 million in fiscal year 1988 for Quality Incentive Grants to fund innovative programs in undergraduate studies.

Through these measures we can create an atmosphere that will encourage the excellence necessary to compete more successfully in a world economy.

To make the most of Kentucky's current position we must create that striving for excellence not only in the classroom but also in research. Increasingly university research translates into wider opportunities.

I'm proposing an important initiative in research that will also encourage cooperation among our universities. A Center for Robotics and Manufacturing Systems at the University of Kentucky will allow our universities to provide the research and technical assistance required in this field by the world's most sophisticated companies. Moreover, I see this joint effort as a highly promising opportunity to bring our universities together for one of higher education's chief aims: The development of knowledge. Our entire system can only be strengthened when our universities work together.

My budget includes some $10 million to launch this cooperative effort in robotics and another $3.2 million in operating support. With this money we will have the opportunity to begin one of the nation's finest centers of excellence in this field.

I want us—this Legislature, university presidents, faculty, business and civic leaders—I want us to resolve to make this one of the top two or three such facilities in America.

My budget includes $600,000 that will allow us to compete for $3 million in research funds from the National Science Foundation.

I am also proposing that—in conjunction with the Council of State Governments—we establish a National Institute for State Government Research, Education, and Service at the University of Kentucky.

Critical to the success of our universities is the stengthening of the physical facilities. My budget carefully targets needed improvements and addresses the highest priorities identified by our universities and the Council on Higher Education.

These projects include:

At the University of Louisville—a Student Activities Center.

At Murray State University—an Industry and Technology Building.

At Northern Kentucky University—an Applied Science/Technology Building.

For the Community College System we will request:

In both Lexington and Elizabethtown—Academic-Technical Buildings.

In Hazard and Prestonsburg—Technical Learning Resource Centers.

And in Madisonville-an Academic Auditorium Building.

My budget recommends significant amounts for deferred maintenance at Eastern, Morehead, Western and the University of Kentucky.

Additionally, at the University of Kentucky we will modernize major equipment through the match of state and university funds.

These capital and equipment projects will be financed through revenue bonds supported by the Commonwealth.

My budget provides funding for a new community college in Owensboro. Owensboro is Kentucky's third largest city. It's our largest city without a community college or university of its own. It's a city whose progressive leadership, as evidenced by Speaker Blandford, has it moving forward with Kentucky. It's time Owensboro had a community college.

My budget calls for a $12.5 million campus to be supported by $2.5 million in operating funds over the biennium.

Access to higher education in Eastern Kentucky has for some time been bolstered through the Appalachian Consortium which offers classes in communities that do not have a college or university. I'm asking for an additional $400,000 for the Consortium over the upcoming biennium.

My budget pledges a continuing commitment to the higher education desegregation effort we began two years ago.

In addition to this commitment I am recommending $250,000 in each year of the biennium for the Council on Higher education to establish the Minority Student College Preparation Program. This program is designed to reach minority students in the eighth, ninth, and tenth grades and to improve their chances for success.

I also propose major capital construction improvements amounting to nearly $6 million at the Kentucky State campus.

All these measures are an investment in our hopes and dreams for a better Kentucky. I have never wavered in my faith in education as a powerful tool for progress, tolerance, and richer lives—for individuals, for entire societies. It is in this spirit that I ask you to renew and sustain our commitment to education.

These improvements in education, both in elementary and secondary and in higher education, are a long-term investment in our economy.

Economic Development

We must also of course continue to pursue policies that create new jobs immediately. Over the past two years, 45,000 new jobs have been added to our economy. Communities throughout the state have benefited. Tens of thousands of Kentucky families today have the opportunity for a better life.

Even as we look ahead to creating more jobs, work remains to complete our successes of the past two years. I am confident you will join me in supporting a bond issue of $125 million to fulfill our agreement with Toyota and to bring some 3,000 new jobs to Scott County. The support of the legislative leadership was vital to this success, and I look forward to your continuing cooperation.

This plant signals a new day in Kentucky. It's a point from which in the future we will mark our progress in diversifying our economy. You in this Chamber recognize that the traditional strengths of our economy cannot alone fulfill the hopes and dreams of our people. They alone cannot carry us through this new age.

Toyota's investment opens tremendous possibilities for us. Because of these possibilities, now is the time to redouble our efforts in economic development. What we've shown in the past two years is that the tools we are using can bring Kentuckians the jobs they deserve. My budget asks for your continued cooperation in providing these tools.

The economic development bond program approved by the 1984 General Assembly has been indispensable. Over the biennium I am asking for another $40 million in economic development bonds. I count on them to help us match the record pace we've set in creating new jobs.

I am also asking for $5 million each year for the loan program operated through the Kentucky Development Finance Authority. This program makes low interest loans available for the expansion of existing businesses, which are the backbone of our economy. This tool will become even more important if the federal government eliminates Industrial Revenue Bonds.

To convey to America's corporate leaders the message that "In Kentucky . . . the Business Environment is

Right," I will ask for an increase of $460,000 to launch a major advertising campaign. This will bring our advertising budget to $1.4 million.

We've all seen how our investment in an economic development office in Japan has paid off by bringing thousands of jobs to Kentucky. I want to make sure we don't miss similar prospects elsewhere. To that end I am recommending a $400,000 annual appropriation to support a Kentucky European office.

I recommend $2 million over the biennium for the Bluegrass State Skills Corporation. A trained workforce is among the most powerful incentives we can offer to prospective employers. And through this corporation, we can assure a business considering locating here that Kentuckians can provide the skills they need. The private sector has been encouraged by this innovative approach and has contributed $2.2 million in matching money. That vote of confidence—our success—means it is time to expand the program.

TOURISM

Another area vital to our state's economic growth is tourism. It is the livelihood of hundreds of small business owners and their employees in communities throughout the state. Restaurants, hotels and motels, service stations, marinas and scores of other service-related businesses thrive when more visitors are attracted to Kentucky.

I'm proposing several significant increases that will bring in more tourists. My budget includes a three-fold increase in the tourist marketing and advertising campaign. I am asking for $1.5 million each year so we will fare better in competing against states that spend ten and twenty times as much as Kentucky on such advertising.

I'm also asking for an increase in the state's matching funds advertising program so critical to our small businesses. We have targeted increases that will improve our ability to compete in the recreational travel market and the motor coach industry.

My budget includes $400,000 to improve the state's welcome centers. It's in these centers where visitors often decide whether they will spend more time in Kentucky. We will refurbish these centers and we will also keep them open longer.

State Parks

Our state parks attract hundreds of thousands of visitors from out of state. I am proposing $2.5 million each year in capital outlay for our parks—a 47 percent increase over the current fiscal year. We're well on the way to returning our parks system to its premier position as America's finest. We will re-equip and refurbish lodge and cabin rooms that have long needed it. I propose construction of a holodome at Lake Cumberland State Resort Park to complement 25 additional lodge rooms and an indoor swimming pool. In addition, my capital budget will include another $6.4 million over the biennium that will enable us to improve and maintain facilities throughout the state.

Kentucky Horse Park

I am recommending a four-fold increase in capital outlay and a 33 percent increase in maintenance funds for the Kentucky Horse Park. In showcasing an industry that is synonymous with Kentucky this park holds great promise for becoming one of the chief tourist attractions in the Eastern United States. My budget will move us toward completion of the covered arena that will enable us to host more national and international competitions at the park.

The Kentucky Fair and Exposition Center

For the first time in recent memory a Governor is recommending General Fund support for maintenance at the Fair and Exposition Center. My budget includes $1 million for specific maintenance projects. Additionally, my capital budget includes money for artificial turf and a drainage system at Cardinal Stadium. This Center is a statewide resource that pumps millions of dollars into our economy and is an investment this state must protect.

With the advances we're making in education and with the tools I'm asking for in economic development, including Tourism, I'm confident we'll continue to make dramatic strides in strengthening Kentucky's economic foundations. While jobs and education continue to be my top priorities, other services vital to the well-being of hundreds of thousands of Kentuckians demand our attention as well.

HUMAN SERVICES

Medicaid

We must put Medicaid on a sound footing. In 1961 we spent $1.7 million on the entire medical care program. Today we spend $1.7 million on Medicaid alone—every day—365 days a year. We must break this tradition of uncontrolled growth and redirect the program to achieve long-term stability. We must take a bold new approach if we are to assure quality care for our people.

I am proposing a plan for long-range alternatives to our present expensive, yet inadequate system. We will redirect the program, provide additional services, and institute accountability and control measures to manage growth in Medicaid. The plan I propose will save over $700 million in the next five years without sacrificing quality health care.

I recommend:

One—Every Medicaid recipient in Kentucky will be placed under a case management system. We will ensure that every patient has a primary care physician who is responsible for overseeing that person's total health care program. When the Kentucky Patient Access and Care system is fully implemented, all Medicaid recipients will be assured that someone is carefully monitoring the delivery of services to meet their individual health care needs.

Two—To achieve the lowest cost consistent with quality health care, we will use HMO's and Preferred Provider Organizations wherever they are available. This will place strong emphasis on wellness and avoidance of unnecessary hospitalization.

Three—To further reduce costs, we will institute a system of competitive bidding for health care services. Wherever possible, bids will be taken for hospital, pharmacy, dental and laboratory services.

Four—We will strengthen the integrity of the Medicaid program by committing $500,000 per year for fraud and abuse control. We will dramatically improve our ability to perform audits, identify problems, and prosecute fraud.

Five—We will actively pursue alternatives to institutionalization by stressing quality home and community-based programs and preventive health care. I recommend $4.3 million to dramatically expand Home Care services. We will increase funds for Hospice care. We will increase funds for Home and Community Based Waiver services to help patients remain at home rather than going into nursing homes. We will expand services to cover additional low income children up to age 12. This will emphasize preventive medical care during the crucial early years. I recommend over $1 million to expand the Adult Day Care program statewide, to develop non-institutional adult day health centers, and to develop respite centers, especially for Alzheimer's victims. We will put $1.25 million into a Long-term Care Prescreening service. Through local health departments, this service will identify and coordinate alternatives to institutionalization.

Six—We will form a division within the new Department of Medicaid Services to assure quality care to all Medicaid recipients. We will never save money at the expense of the health care of our citizens.

In addition, we must guarantee that our reimbursement program truly reflects the expense of health care. I have asked the Cabinet for Human Resources to thoroughly review operating costs. We must ensure that health care dollars are spent on care for our people.

In addition to the plan I have outlined, I make the following recommendations:

I ask that you ratify my Executive Order creating the Department of Medicaid Services.

I ask that you ratify my Executive Order creating the Certificate of Need Authority.

I ask that you enact a moratorium on additional long-term beds for the biennium.

I ask that you enact a more restrictive statute pertaining to recipient transfer of assets to gain Medicaid eligibility. Where abuse is apparent, the Cabinet for Human Resources should have the authority to place liens on property and check bank records of Medicaid recipients in long-term care facilities.

I ask that you enact legislation to ensure equal access to long-term facilities by Medicaid recipients.

Our goal is an accountable, cost-effective Medicaid program that stresses quality care and home and community-based alternatives. That takes more than money. It takes redirection. It takes long-term commitment. And I'm offering the new direction that can lead to a stable, dependable system.

Children

Among the Kentuckians who look to the Commonwealth for a range of services, children especially need our support. Tonight, I am recommending over $28 million to support the reforms we made in Protective Services during the Special Session. This $28 million is above the $8.3 million we provided then for the current fiscal year. In addition I am recommending another $775,000 each year of the biennium to move forward on the reforms urged by my task force on children's services.

I am proposing an additional $4 million to extend prenatal care—one of our most effective health and children's programs. This care is vital to tens of thousands of Kentucky's young women and their babies. My proposed 83 percent increase in state support should go a long way toward reducing the changes of premature births and associated problems.

I am asking for additional funding each year for the Kentucky Regional Poison Center. The Center operates around the clock to provide emergency information statewide.

I am recommending an additional $458,000 to meet the increased demand for surgical services among handicapped children. Furthermore, the services provided these children should be expanded to include the treatment of juvenile rheumatoid arthritis and I have provided $330,000 over the biennium to meet this need.

I created the Commission for Handicapped Children by Executive Order. I ask you to confirm that order so we can continue to provide medical services to children who need these services.

I am asking for $90,000 so the State Police can provide additional assistance to the Missing Children Information Center.

Mental Health and Mental Retardation

In mental health and mental retardation services I recommend $4 million in new money to improve and expand services for the chronically mentally ill using community alternatives. I ask for an additional $2.6 million for *local* mental retardation programs. My budget also addresses the inadequacies in our institutional services. I recommend construction funds for a secure psychiatric unit at Central State Hospital. My budget also includes construction funds to improve Eastern State Hospital's recreational and dining facilities.

Another $100,000 each year will be directed toward the problem of domestic violence. I propose $2 million in new money to improve our alcohol and drug abuse treatment.

Corrections

I am recommending the construction of a $45 million medium security prison in Morgan County—a site endorsed by a panel of legislators. This 500-bed prison will be financed by bonds.

As my Prison Options Task Force recommended, I have explored all options to address overcrowding in our Corrections system. Intensive Supervision for parolees and probationers, transferring geriatric inmates from the Reformatory to another facility, private prisons, halfway houses, and planning and design for a new medium security prison—we've pursued all of these alternatives. Now, based on our current situation and on the most realistic estimates of expected increases in our prison population, it is imperative that we move ahead with the medium security prison.

To continue our compliance with the federal court order and to provide additional space, I am also including funding for the private vendor contract, increased use of halfway houses, and expansion of the intensive supervision program—measures recommended by the Prison Options Task Force.

Because we will continue to rely on the controlled intake program using county jails throughout the biennium, I am recommending an increase in the present per diem. My budget calls for increasing the current $10 rate to $12 in fiscal year 1987 and to $13 in fiscal year 1988.

I propose similar increases for the community jail center beds under state contract and the regional jail beds we expect to come on line in the new biennium. Consistent with the consent decree my capital budget includes money to replace a dormitory at LaGrange. All these recommendations form a comprehensive and effective approach to Corrections—one that deals straightforwardly with the current population and that prepares us to protect our citizens in the years ahead.

Additionally, my budget corrects what has been a fundamental shortcoming in our system of justice. I ask you to adopt and fully fund the juvenile code effective July 1, 1987. I propose over $7.6 million to support the juvenile code in 1988, including over $3 million reserved for the Judicial Branch.

My program is a comprehensive one using additional group homes, diversion homes, a residential facility, a psychiatric assessment unit and support costs. The funds will be allocated among the Human Resources Cabinet and other Executive agencies as well as the Judicial System. With this Code we improve the prospects that thousands of troubled youngsters will move toward more satisfying and productive lives.

I have already detailed my capital and maintenance plans in higher education and in several other areas. A similar commitment is required elsewhere to protect and improve our investments.

I am asking for $26.9 million from the General Fund for various new construction and renovation projects. In addition, $33.9 million in investment income will be earmarked for maintenance.

Among my top priorities is major renovation and structural repair for the Capitol, the Capitol Annex and the surrounding grounds. My budget contains the necessary funds for repairs to the terraces and walkways and landscaping and parking modifications.

I am also recommending money to improve the mechanical, electrical, heating and air conditioning systems. These systems lack the capacity to support the modern technology our offices require.

I also propose a major project to remove asbestos from the health services building.

Environment

I recommend increasing General Fund support in the Natural Resources and Environmental Protection Cabinet by 15 percent in 1987.

My budget includes full funding for my two major environmental commitments, the Water Management Plan and Surface Mining Primacy. I propose an additional $3.1 million for trained personnel in the Division of Water this biennium, a 52 percent increase in state funding in fiscal year 1987.

In surface mine reclamation we will meet our primacy goals by funding 408 permanent, full-time employees and by providing substantial increases in General Fund support each year of the biennium.

I am also committing $750,000 to match federal funds for the permitting and inspection of coal preparation plants.

I recommend substantial increases for laboratory support to meet the expected increase in work, and I have committed additional resources to our waste management program.

We have taken advantage of all federal funds available under the abandoned mine lands program and will proceed to reclaim "post-law" lands for which the bonds have been forfeited.

Energy

Since before taking office I have urged the development of clean coal burning technology as a cornerstone of a sound national energy policy and as an essential element of a sound environmental policy.

I recommend $6.7 million to honor our commitment to our partnership with TVA and other investors in the atmospheric fluidized bed combustion project near Paducah.

Our project becomes even more important because the administration in Washington now agrees with our position that the effective path to cleaner air lies in new technology—not in the technologies of the past.

My budget also includes $1.5 million to allow the Energy Cabinet to participate in the federal Clean Coal Technology Program.

Taken together these efforts put Kentucky in the forefront of the research that will allow America to use its most abundant energy resource more extensively.

The Arts

My budget also contains funds to carry on Kentucky's strong tradition of support for the arts. The arts identity we have attained is an increasingly important factor in the state's progress and in the image we present to the world.

The Kentucky Center for the Arts in Louisville is an asset to the entire state because of its artistic and cultural contributions and its educational and economic value. The Commonwealth is a key investor in the Center. And I will enhance that investment through two programs in my budget.

First, to ensure that this Center remains one of America's finest regional performing arts facilities, I include $250,000 each year for maintenance and support.

Second, I am proposing a program that will enable the Center to cultivate the talents of the most creative young people in communities throughout the state. The Governor's Institute for the Arts will be a summer residential program for Kentucky's artistically gifted students.

In a very real sense this institute is the artistic counterpart to the Governor's Scholar Program, whose success has been felt in every county. Through a summer institute, the excellence of Louisville's arts community will enrich the lives of young people from all across Kentucky.

Growth in arts activity has improved the quality of life in scores of our cities and towns. I am recommending an increase of 22 percent in grant funds for community arts development. This increase will encourage and strengthen the arts through programs designed for both rural and urban areas.

State Employees

During the past two years our state employees have served the public well and I am pleased to say my budget fully reinstates the 5 percent annual increment for state employees. In addition, all three categories of public employees including state employees, university faculty and staff, and public school teachers and administrators, have been provided a salary incentive or bonus pool in the Executive Budget to reward outstanding contributions.

Road Fund

I have chosen to reserve my options with respect to the challenge of the road fund. Make no mistake, our needs are as great as they were last summer.

During the Special Session and before I made clear the need to support our road program with adequate resources. We will have time to confront that issue in the remaining months of this Regular Session. I am willing to listen to you and to work with you as we consider the various alternatives on this matter.

Tonight . . . we have reviewed the issues facing the Commonwealth and my plan for addressing them.

As I mentioned earlier my budget will leave a surplus. In fact, that surplus is set aside in a Budget Reserve Trust Fund to be appropriated in the amount of $50 million each year of the biennium. When the budget is fully executed in two years, I intend for the next Governor and the next General Assembly to have a $100 million surplus to work with.

If the economy were to slow down unexpectedly during the upcoming biennium we will have a cushion against adversity.

I offer these recommendations for your consideration. I welcome your ideas and suggestions as you examine my budget in detail in the weeks and months ahead. I am confident you will find it a sound plan . . . one that carefully targets our money . . . one that moves us ahead in education and economic development and in other areas critical to our progress.

Two years ago . . . many would have said Kentucky could not have reached the promising position we have carved out for ourselves.

—A $100 million surplus.

—An ambitious budget that will send us further into a new economic age.

—Striking advances in education.

—A record number of new jobs.

—National, international attention focused on Kentucky, attention on our strengths, on the many advantages this state and its people have to offer. And because of all this we have before us the very real possibility to bring our people the jobs we have not attracted in the past.

That's how far we've come. I believed then, two years ago. And I believe now. We find ourselves in a position to achieve extraordinary things for this state.

We can attract those jobs. We can shape our own future. We can create a better life here in Kentucky.

What it takes from you and me is determination and commitment.

I offer you a budget that says: We shall not let this opportunity pass.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the chair.

Representative Stumbo moved to suspend the rules to allow Introductions, Committee Reports, and Posting. Agreed.

Introduction of Bills and Resolutions

HB 398, by Representatives Blandford, Rapier, Donnermeyer, Worthington and Stumbo: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 416, by Representative Hines, Handy, Head, Moberly, Mack, Bendl, Long, Deskins and Heleringer: AN ACT relating to holidays.

HB 417, by Representatives Smith, Richards and Farrow: AN ACT relating to financial institutions.

HB 418, by Representatives Blevins, Stumbo, Barrows, Turner and Long: AN ACT relating to private drinking water supplies.

HB 419, by Representative Barrows: AN ACT relating to service credit in the Kentucky Retirement System.

HB 420, by Representative Ford: AN ACT relating to motor vehicle operators' licenses.

HB 421, by Representative Burnette: AN ACT relating to veterinarians.

HB 422, by Representative Richards: AN ACT relating to crimes and punishments.

HB 423, by Representative Gedling: AN ACT relating to liability insurance for criminal justice personnel, the attorney general and employes of the department of law.

HB 424, by Representatives Ellington, Napier, M. Brown, Maggard and Stumbo: AN ACT relating to purchasing.

HB 425, by Representative T. Jones: AN ACT relating to tolls.

HJR 36, by Representatives Freibert and K. Harper: A JOINT RESOLUTION requesting and petitioning the Congress of the United States for the purpose of requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

Report of Committees

The Committee on Education reported HB 19, with Committee Amendments attached thereto, HB 169, HB 241, with Committee Amendments attached thereto, HB 306 and HB 322, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to teachers retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years—90% of benefits~~

~~28 years—80% of benefits~~

~~27 years—70% of benefits.~~]

[~~(c)~~]

Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under *paragraph* (a) *of this subsection* who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Title Amendment No. 1 to HB 19 is as follows:

Amend printed copy of HB 19, Title:

By amending the title to read as follows:

"AN ACT relating to teachers' retirement and declaring an emergency."

Committee Amendment No. 1 to HB 19 is as follows:

Amend printed copy of HB 19:

On page 7, after line 2, add the following:

"Section 3. KRS 161.540 is amended to read as follows:

(1) Effective *July 1, 1986* [~~July 1, 1984~~], each member shall contribute to the retirement system *nine and eight hundred and fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred and seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 4. Whereas contributions to the retirement system must be made at the beginning of the fiscal year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

HB 169, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.665 is amended to read as follows:

(1) The state board of education shall promulgate regulations stipulating that at least seventy percent (70%) of the time in each elementary school *year* [~~week~~] shall be spent on basic skills. These skills include reading, spelling, writing, library skills, and mathematics which shall be required until such time as each student demonstrates the expected competency. This applies to the first eight (8) grades of school regardless of the organizational pattern of the school. In addition, subject matter content in the elementary schools for this seventy percent (70%) time block shall consist of social studies, mathematics, science, language arts and library skills. *When taken as an elective, foreign language shall be considered part of the seventy percent (70%) time block.* The remainder of the *time* [~~week~~] may be scheduled by the local school in accordance with regulations of the state board of education and may include music, art, physical education, health, *industrial arts, home economics,* career education, environmental education and consumer education as a part of the elective program.

(2) The state board of education shall promulgate regulations stipulating that all secondary school students in grades nine (9) through twelve (12) shall continue to develop competency in reading and writing, including grammar and spelling, with sixty percent (60%) of their time, as defined by state board regulations, being devoted to basic skills development in the curriculum areas of English, language arts, science, mathematics and social studies. The school system shall provide appropriate elective courses, including vocational subjects, for the remainder of the student's program.

(3) In enacting this legislation, the general assembly is supplementing the provisions of the Educational Improvement Act of 1978 and, by so doing, reaffirms the requirements of that legislation as placed on the state department of education and local school districts. Furthermore, the superintendent of public instruction is hereby directed to fully carry out the purpose and intent of that legislation and all that it entails in providing for a program of quality education in the Commonwealth.

HB 241, AN ACT relating to exceptional children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, [~~and~~] classroom units for directors of pupil personnel, *and classroom units for related services for exceptional children*; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. One (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance;

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance;

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(10) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. *Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children pursuant to KRS 157.200. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board of education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment. No district shall receive a decrease of classroom units for exceptional children which is proportionately greater than the district's decrease in average daily attendance unless the classroom unit decrease results from the reduction to be in compliance with the fifteen percent (15%) and twelve percent (12%) limits set forth in this subsection.*

(b) In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or

agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(c)[~~(b)~~] The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

[~~(c) In allotting classroom units for exceptional children for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.~~]

(11)[~~(d)~~] Pursuant to regulations of the department of education, *local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments* [~~a portion of the classroom units for exceptional children appropriated in the biennial budget may be used to provide home or hospital instruction on an hourly basis for pupils properly identified according to state board of education regulations~~]. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12)[~~(11)~~] Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(13)[~~(12)~~] In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(14)[~~(13)~~] Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(15)[~~(14)~~] In allotting classroom units for superintendent, one unit shall be allotted each school district.

(16)[~~(15)~~] In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. Except with state board of education approval for districts with unique characteristics, districts which receive units in excess of the percentage limitations established in subsection (10) of this section shall receive units under this subsection only if the number of units allotted under this subsection is larger than the number of excess units. The number allotted under this subsection shall be the difference between the two (1) allotments. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special

education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.

Committee Amendment No. 1 to HB 241 is as follows:

Amend printed copy of HB 241:

on page 8, line 25, after the word "*additional*" insert the following:

"*for all other*"

Committee Amendment No. 2 to HB 241 is as follows:

Amend printed copy of HB 241:

On page 9, line 14, delete all new language beginning with "*No*" through the period (.) on line 20;

On page 13, line 14, delete all new language beginning with "*Except*" through the period (.) on line 22.

HB 306, AN ACT relating to a duty-free lunch period for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board of education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board of education. Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the superintendent of public instruction. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the non-instructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of non-instructional time shall not include the teacher's duty-free lunch period, *the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day,* or the time teachers are required to remain at school after the students are dismissed. Except for children attending kindergarten, readiness classes, first grade classes, and the handicapped, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board of education, six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. The state board of education, upon recommendation of the superintendent of public instruction, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

HB 322, AN ACT relating to support services for hearing impaired students in public institutions of higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the general assembly to increase the educational level of hearing impaired persons by assuring them an equal opportunity to obtain an education in the public institutions of higher education.

(2) The public institutions of higher education shall make their programs accessible to hearing impaired students by providing support services necessary for such students to fully participate in the programs. The support services shall include but not be limited to interpreters and notetakers in the classroom, and equal access to all support services available to those who are not hearing impaired. Appropriate emergency warning devices shall be available in dormitories housing hearing impaired students.

(3) (a) Primary funding for support services at the institutions excluding costs of capital equipment or modifications for installation of warning devices shall come from vocational rehabilitation funds pursuant to KRS 163.130. The institutions of higher education and the office of vocational rehabilitation shall cooperate to assure that funds are used to effectively provide support services for hearing impaired students.

(b) The general assembly shall appropriate funds to the council on higher education to cover the costs of support services at the institutions for residents of Kentucky who are hearing impaired students and who do not qualify for support services from vocational rehabilitation funding or other sources of funding. The funds shall be distributed to institutions based upon actual costs of providing support services to individual students.

(c) The provision of support services to a hearing impaired student shall not be refused or delayed because of a disagreement between the institution and the office of vocational rehabilitation as to who is responsible for funding. In such case it shall be the responsibility of the institution to provide the services and resolve the disagreement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

By the beginning of the 1986-87 school year, there shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of hearing impaired students attending the institutions of higher education. The council on higher education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for hearing impaired students to develop and offer the training program. The program must lead to a minimum of an associate degree in interpreting. By the beginning of the 1987-88 school year, the university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. Wednesday, January 22, 1986.

On the roll call the vote was Yeas: 47—Allen, Arnold, Barrows, Bendl, Blandford, M. Brown, Bruce, Caldwell, P. Clark, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Ford, Gray, Gregory, K. Harper, Hines, Keith, Lear, Lefevers, Long, Lyne, Mack, McBee, Meyer, Moberly, Morris, Napier, Noland, O'Brien, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Smith, Stewart, Stumbo, Todd, Turner, White, Worthington. Nays 5—Holbrook, Maggard, McElroy, Overstreet, Williams.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 22, 1986

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Robert Wood of the First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Johnson.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 21, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 2, SB 3, SB 8, SB 12, SB 13, SB 16, SB 29, SB 43, SB 47, SB 83, and SB 91.

Introduction of Bills and Resolutions

HB 426, by Representative Maggard: AN ACT relating to electrical contractors and electricians.

HB 427, by Representative Meyer: AN ACT relating to local government.

Reference of Bills and Resolutions

The clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 401, HB 421.

Appropriations and Revenue: HB 409, HB 407, HB 408, HB 410, HB 415, HB 398.

Banking: HB 417.

Business Organizations and Professions: HB 405, SB 73, SB 104.

Counties and Special Districts: HB 402, HB 411.

Education: HCR 34, SB 102.

Health and Welfare: HB 403, HB 404.

Judiciary-Criminal: HB 413, HB 422.

Labor and Industry: HB 424.

Natural Resources and Environment: HB 406, HB 414, HB 418.

State Government: HB 399, HB 400, HB 416, HB 419, HB 423, HJR 36.

Transportation: HB 412, HJR 35, HB 420, HB 425.

Report of Committees

The Committee on Rules reported HB 30, HB 52, HB 80, HB 11 and HB 45 have been posted for passage in Orders of the Day, January 23, 1986.

The Committee on Rules reported HB 112 and HB 36 have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Agriculture and Small Business reported HB 59, HB 150 and HB 154 with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to vocational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. One (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance;

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance;

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) *(a)* Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Classroom units for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience.

(10) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(b) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

(c) In allotting classroom units for exceptional children for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(d) Pursuant to regulations of the department of education, a portion of the classroom units for exceptional children appropriated in the biennial budget may be used to provide home or hospital instruction on an hourly basis for pupils properly identified according to state board of education regulations. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(11) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(12) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(13) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(14) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(15) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

HB 150, AN ACT relating to a linked investment loan program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) "Eligible small business" means any person who has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices and operating facilities in this state and transacts business in this state;

(c) Employs fewer than the equivalent of fifty (50) full-time employes, the majority of whom are residents of Kentucky;

(d) Has gross earnings that do not exceed one million dollars ($1,000,000) annually;

(e) Is organized for profit or is organized as a cooperative;

(f) Holds no position as officer or director of an eligible lending institution, except that directors of a farm cooperative may participate as borrowers.

(2) "Eligible agri business" means any person who has all of the following characteristics:

(a) Is actively engaged in agricultural endeavors;

(b) Shows gross earnings not in excess of one million dollars ($1,000,000) annually;

(c) Derives at least one-half (1/2) of annual gross income from farming and not more than sixty thousand dollars ($60,000) annual net income from all other sources; and

(d) Holds no position as officer or director of an eligible lending institution, except that directors of a farm cooperative may participate as borrowers.

(3) "Eligible lending institution" means:

(a) A qualified public depositor or financial institution which is eligible to make commercial loans, which chooses to participate in the linked investment program, and which agrees to lend the value of such deposits to small businesses/agri businesses at a reduced interest rate calculated by the state investment commission according to the provisions of Section 3, subsection (3) of this Act; or

(b) An institution of the farm credit system organized under the "federal farm credit act of 1971", 85 Stat. 583, 12 U.S.C.A. 2001, as amended which is eligible to make commercial loans, which chooses to participate in the linked investment program, and which agrees to lend the value of such deposits to small businesses/agri businesses at a reduced interest rate calculated by the state investment commission according to the provisions of Section 3, subsection (3) of this Act.

(4) "Linked investment" means:

(a) A repurchase agreement placed by the state investment commission with an eligible lending institution at the rate designated according to the provisions of Section 3, subsection (3) of this Act; or

(b) An investment by the state investment commission in bonds, notes, debentures or other obligations or securities issued by the federal farm credit bank at a rate four hundred (400) basis points below current market rates. The state investment commission may invest in such obligations or securities prior to acceptance of an agricultural linked investment package.

SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The state investment commission may invest in linked investments as provided for in KRS 42.510 as amended, provided that at the time of placement of the linked investment not more than ten percent (10%) of the state's funds determined by the state investment commission to be eligible for bank investments are so invested. The total amount so deposited at any one time shall not exceed, in the aggregate, seventy million dollars ($70,000,000).

(2) One-half (1/2) of the total investment, or up to thirty-five million dollars ($35,000,000) shall be invested in low interest loans for agricultural endeavors. The investment vehicle for the agri business loans shall be either:

(a) The Commonwealth's master repurchase agreement negotiated as follows: an investment of one (1) year with a variable rate to be adjusted quarterly based upon the state investment commission's repurchase agreement rate. Any quarterly variations shall be passed on to the borrower. Loans may be renewed upon reapplication when continuing need is shown and as funds are available; or

(b) Bonds, notes, debentures or other obligations or securities issued by the federal farm credit bank, said investments to mature as determined by the state investment commission in accordance with the purposes of this Act.

(3) One-half (1/2) of the total investment, or up to thirty-five million dollars ($35,000,000) shall be invested in low interest loans for small business expansion or development. The investment vehicle for the small business loans shall be the same as that provided for agri business loans in subsection (2) of this section.

(4) The state investment commission may accept or reject a linked investment package or any portion thereof, based on the ratio of state funds to be deposited to jobs sustained or created.

(5) Upon acceptance of the linked investment package or any portion thereof, the state investment commission may place a repurchase agreement with the eligible lending institution or invest in bonds, notes, debentures or other obligations or securities issued by the federal farm credit bank at the rate determined by the investment commission according to the provisions of Section 3, subsection (3) of this Act.

(6) The state investment commission reserves the right to alter the loan rate to the lender, not the borrower, if linked investment program auditors determine that the lending institution has violated standards of the low interest loan program.

(7) In considering which eligible small businesses/agri businesses should receive reduced rate loans, the state investment commission shall take the following conditions into consideration:

(a) The economic needs of the area in which the business is located;

(b) The number of in-state jobs to be created or preserved by the receipt of the loan;

(c) Current profitability of the enterprise;

(d) The historical ability of the borrower to prove his enterprise can be profitable;

(e) The evidence that the money saved on the reduced interest rate loan will provide a real and verifiable opportunity for current profitability; and

(f) Evidence that amount loaned will be used exclusively to finance in-state operations.

(8) The state investment commission, annually, by February 1, shall make a report on the linked investment program for the preceding year to the governor and to the leadership of the general assembly who shall, in turn, transmit it to the appropriate standing committees for consideration. The report must include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based, and the eligible small businesses/agri businesses who received the loans.

SECTION 3. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Qualified public depositories in Kentucky shall have the option of participating in either the state investment commission's master repurchase agreement program, or the linked investment program exclusively.

(2) An eligible lending institution shall enter into a linked investment agreement with the state investment commission which shall include requirements necessary to carry out the purposes of the linked investment program. Such requirements shall be established in administrative regulations promulgated by the finance and administration cabinet.

(3) The eligible lending institution that desires to receive a linked investment shall agree to loan such funds to borrowers under the following terms:

(a) Maturity dates of the loan will be set as agreed to between the financial institution and the borrower; and

(b) The rate of interest on the loan made by a qualified public depository shall be four hundred (400) basis points below the state investment commission's repurchase agreement rate setting formula on the day the application is accepted or in the case of a federal farm credit institution four hundred (400) basis points from the eligible lending institution's base lending rate.

(4) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small and agri businesses. The lending institution shall assume all responsibility for credit underwriting, and shall apply all usual lending standards to determine the creditworthiness of each applicant.

(5) The eligible lending institution shall forward to the state investment commission a linked investment loan package, in the form and manner as prescribed by the state investment commission. The package shall include such information as required by the state investment commission, including the amount of the loan requested and the number of jobs to be created or sustained by each eligible small business/agri business.

(6) The eligible lending institution shall charge no penalty for early payback of the linked deposit loan.

(7) Applications for renewal of repurchase agreements shall be accompanied by a status report on linked deposit loans.

(8) The eligible lending institution is responsible for payback on the retirement of any loan made under the linked deposit program.

(9) No loan may exceed fifty thousand dollars ($50,000) in state money.

(10) The eligible lending institutions shall charge a closing fee, payable on the closing date, of one-quarter (1/4) percentage point of the loan amount. This fee shall be forwarded to the state treasurer to be used to pay the costs of operating and auditing this program. An interest surcharge of up to one and one-half (1 1/2) percentage points may be added to the interest rate by the eligible lending institution to cover its cost of operating the program, the provisions of Section 3, subsection (3) not withstanding.

(11) The state and the state investment commission are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small or agri business. Any delay in payments or default on the part of a borrower does not in any manner affect the deposit agreement between the eligible lending institution and the state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Monies obtained from the linked investment loan program by eligible small and agri businesses may be used for annual working capital for production costs, interest costs, capital expense, and debt refinancing. In no case shall monies obtained from the linked investment loan program be used to purchase stock in any eligible lending institution.

(2) Eligible small and agri businesses who have obtained business loans prior to November 1, 1985, shall be allowed to refinance prior loans under the terms of the linked investment program. The borrower shall not be charged any penalty for the refinancing at the same lending institution.

SECTION 5. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Applications for linked investment loans shall:

(a) Be made on forms of lending institution which include financial statement of borrower;

(b) Include most recent federal income tax form 1040, pages one (1) and two (2), and Schedule F; and,

(c) Include statement from lending institution's chief executive officer or his designee that the loan conforms to the intent of the program.

(2) Whoever knowingly makes a false statement concerning an application for a linked investment loan shall be charged with the offense of issuing a false financial statement, and will be subject to the penalty provided for such offense in KRS 411.070.

SECTION 6. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The linked investment loan program shall be monitored by the department of financial institutions, the departments of agriculture and commerce, and by the finance and administration cabinet.

(2) The treasury of the Commonwealth shall provide primary administrative support for the program at the direction of the state investment commission.

(3) The finance and administration cabinet is hereby authorized to promulgate rules and regulations necessary to the proper administration of the linked investment program.

Section 7. KRS 42.510 is amended to read as follows:

(1) The state investment commission shall, in a timely manner, consistent with the goal of maximizing the return on invested funds, fix the rate of interest to be paid by qualified public depositories upon investment deposits.

(2) Time deposits in Kentucky depositories made pursuant to this chapter shall bear interest at a rate which would be equal to one hundred percent (100%) of the average full fair market rate of interest for such deposits in Kentucky and contiguous states determined from quotes from not less than seven (7) banks, at least four (4) of which shall be Kentucky banks. Those rates shall be recorded by the state investment commission.

(3) The state investment commission may invest through eligible lending institutions as defined in Section 1, subsection (3) of this Act, in a linked investment program to provide low cost funds for reduced rate loans to eligible small businesses and agri businesses. The linked investment program loan rate shall be fixed by the state investment commission in the manner provided under Section 3, subsection (3) of this Act.

Section 8. KRS 42.520 is amended to read as follows:

(1) The state investment commission shall assign public funds to public depositories by priority based on evidence that the public depository serves the convenience and economic development needs of the communities in which they are chartered to do business. The convenience and needs of communities include the need for credit services as well as deposit services.

(2) The state investment commission shall only assign priorities to public depositories on the basis of compliance with regulations promulgated pursuant to KRS Chapter 13A.

(3) The state investment commission may invest through eligible lending institutions, as defined in Section 1, subsection (3) of this Act, in a linked investment program, and shall assign priority to borrowers based on the provisions of Section 2, subsection (7) of this Act.

Section 9. The provisions of this Act shall expire on June 30, 1988.

HB 154, AN ACT relating to retail sales of farm equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Current model" means a model listed in the wholesaler's, manufacturer's or distributor's current sales manual on any supplements thereto;

(2) "Current net price on parts" means the price listed by the wholesaler, manufacturer or distributor of farm implements, machinery, utility and industrial equipment, attachments or repair parts in a price list or catalogue in effect at the time the contract is cancelled or discontinued, less any applicable trade and cash discounts;

(3) "Retailer" means any person, firm or corporation engaged in the business of selling and retailing farm implements, farm machinery, utility and industrial equipment, attachments, and repair parts for such equipment, but shall not include retailers of petroleum, motor vehicle and related automotive care and replacement products normally sold by such retailers, and retailers of yard and garden equipment not primarily engaged in the farm equipment business. The term "retailer" shall also include any person engaged in the aforementioned business, his heirs, personal representatives, or his guardian;

(4) "Inventory" means farm implements, farm machinery, utility and industrial equipment, attachments, and repair parts for such equipment; and

(5) "Net cost" means the price the retailer paid for the inventory to the wholesaler, manufacturer or distributor of such inventory, less all discounts allowed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Whenever any retailer enters into a franchise agreement, evidenced by a written contract, with a wholesaler, manufacturer or distributor of inventory wherein the retailer agrees to maintain an inventory and the contract is terminated, then such wholesaler, manufacturer or distributor shall repurchase the inventory as provided in this Act. The retailer may keep the inventory if he desires. If the retailer has any outstanding debts to the wholesaler, manufacturer or distributor then the repurchase amount may be credited to the retailer's account.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The wholesaler, manufacturer or distributor of inventory shall repurchase that inventory previously purchased from him and held by the retailer on the date of termination of the contract. The wholesaler, manufacturer or distributor of inventory shall pay one hundred percent (100%) of the net cost of all new, unsold, undamaged and complete farm implements, machinery, utility and industrial equipment, and attachments and one hundred percent (100%) of the net cost of all new, unused and undamaged repair parts. The wholesaler, manufacturer or distributor shall pay the retailer five percent (5%) of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing, and loading in lieu of paying the five percent (5%) of the current net price for these services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor of such inventory.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged condition;

(3) Any single repair part which is priced as a set of two (2) or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of clear title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any farm implements, farm machinery, utility and industrial equipment, attachments and repair parts for such equipment which are not in new, unused, undamaged condition;

(8) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract; and

(9) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

If any wholesaler, manufacturer or distributor of inventory shall fail or refuse to repurchase any inventory covered under the provisions of this Act within sixty (60) days after shipment of such inventory, he shall be liable in a civil action for one hundred percent (100%) of the current net price of the repair parts inventory and one hundred percent (100%) of the net cost of all other inventory, plus any freight charges paid by the retailer, the retailer's attorney's fees, court costs and interest on the current net price computed at the legal interest rate from the sixty-first (61st) day after shipment.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

In the event of death or incapacity of the retailer or insolvency of the corporation operating as a retailer, the wholesaler, manufacturer or distributor of inventory shall, at the option of the heir, personal representative, guardian or receiver, repurchase the inventory from such heir, personal representative, guardian or receiver as if the wholesaler, manufacturer or distributor had terminated the contract. The heirs, personal representative, guardian or receiver shall have up to one (1) year from the date of death, incapacity or insolvency to exercise their option under this Act. Nothing in this chapter shall require the repurchase of any inventory if the heir, personal representative, guardian, receiver or retailer and wholesaler, manufacturer or distributor enter into a new contract to operate the retail dealership.

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not be construed to affect in any way any security interest which the wholesaler, manufacturer or distributor of inventory may have in the inventory of the retailer, and any repurchase hereunder shall not be subject to the provisions of the bulk sales law. The retailer, wholesaler, manufacturer or distributor of inventory may furnish a representative to inspect all parts and certify their acceptability when packed for shipment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply to all contracts now in effect, contracts which have no expiration date and are a continuing contract and all other contracts entered into or renewed as of the effective date of this Act. Any contract in force and effect after the effective date of this Act, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to this Act.

Committee Substitute to HB 154 is as follows:

HB 154, AN ACT relating to retail sales of farm equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Current net price on parts" means the price listed by the wholesaler, manufacturer or distributor of farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments or repair parts for such equipment in a price list or catalogue in effect at the time the contract is cancelled or discontinued, less any applicable trade and cash discounts;

(2) "Retailer" means any person, firm or corporation engaged in the business of selling and retailing farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments, and repair parts for such equipment, but shall not include retailers of petroleum, motor vehicle and related automotive care and replacement products normally sold by such retailers. The term "retailer" shall also include any person engaged in the aforementioned business, his heirs, personal representatives, or his guardian;

(3) "Inventory" means farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments, and repair parts for such equipment; and

(4) "Net cost" means the price the retailer paid for the inventory to the wholesaler, manufacturer or distributor of such inventory, less all discounts allowed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Whenever any retailer enters into a franchise agreement with a wholesaler, manufacturer or distributor of inventory wherein the retailer agrees to maintain an inventory and the contract is terminated, then such wholesaler, manufacturer or distributor shall repurchase the inventory as provided in this Act. The retailer may keep the inventory if he desires. If the retailer has any outstanding debts to the wholesaler, manufacturer or distributor then the repurchase amount may be credited to the retailer's account.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The wholesaler, manufacturer or distributor of inventory shall repurchase that inventory previously purchased from him and held by the retailer on the date of termination of the contract. The wholesaler, manufacturer or distributor of inventory shall pay one hundred percent (100%) of the net cost, plus any freight charges paid, of all new, unsold, undamaged and complete farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment and attachments and one hundred percent (100%) of the current net price of all new, unused and undamaged repair parts.

(2) The wholesaler, manufacturer or distributor shall pay the retailer five percent (5%) of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing, and loading in lieu of paying the five percent (5%) of the current net price for these services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor of such inventory.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two (2) or more items;

(4) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of clear title, free and clear of all claims, liens and encumbrances;

(5) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(6) Any inventory which is not in a new, unused and undamaged condition;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract; and

(8) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

If any wholesaler, manufacturer or distributor of inventory shall fail or refuse to repurchase any inventory covered under the provisions of this Act within sixty (60) days after shipment of such inventory to the wholesaler, manufacturer or distributor, he shall be liable in a civil action for one hundred percent (100%) of the current net price of the repair parts inventory plus five percent (5%) for handling, packing and loading, if applicable and one hundred percent (100%) of the net cost of all other inventory, plus any freight charges paid by the retailer, the retailer's reasonable attorney's fees, court costs and interest on the current net price computed at the legal interest rate from the sixty-first (61st) day after shipment.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

In the event of death or incapacity of the retailer or insolvency of the corporation operating as a retailer, the wholesaler, manufacturer or distributor of inventory shall, at the option of the heir, personal representative, guardian or receiver, repurchase the inventory from such heir, personal representative, guardian or receiver as if the wholesaler, manufacturer or distributor had terminated the contract. The heirs, personal representative, guardian or receiver shall have up to one (1) year from the date of death, incapacity or insolvency to exercise their option under this Act. Nothing in this chapter shall require the repurchase of any inventory if the heir, personal representative, guardian, receiver or retailer and wholesaler, manufacturer or distributor enter into a new contract to operate the retail dealership.

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not be construed to affect in any way any security interest which the wholesaler, manufacturer or distributor of inventory may have in the inventory of the retailer, and any repurchase hereunder shall not be subject to the provisions of the bulk sales law. The retailer, wholesaler, manufacturer or distributor of inventory may furnish a representative to inspect all parts and certify their acceptability when packed for shipment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply to all contracts now in effect, contracts which have no expiration date and are a continuing contract and all other contracts entered into or renewed as of the effective date of this Act. Any contract in force and effect after the effective date of this Act, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to this Act.

Committee Amendment No. 1 to Committee Substitute to HB 154 is as follows:

Amend printed copy of Committee Substitute for HB 154:

After Section 9, Page 6, add the following:

Section 10. Whereas, the early spring is the most important time for the farm industry and any relief to farm equipment dealers offered by this bill would be negated by a later effective date, this Act shall become effective upon its passage and approval by the Governor.

Committee Title Amendment No. 1 to Committee Substitute to HB 154 is as follows:

Amend printed copy of Committee Substitute for HB 154:

on Page 1, line, Title,

AN ACT relating to retail sales of farm equipment and declaring an emergency.

The Committee on Appropriations and Revenue reported HB 210, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Cities reported HB 139 with Committee Amendment attached thereto, HB 140 with Committee Amendment attached thereto, HB 181, HB 217 with Committee Amendment attached thereto, HB 265, and HB 279 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 139, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100,211 is amended to read as follows:

(1) A proposal for amendment to any zoning regulation may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by KRS chapter 424 and make recommendations to the various legislative bodies or fiscal courts involved, and it shall take a majority of the entire legislative body or fiscal court *or two-thirds (2/3) of all members present where there is a properly constituted quorum, whichever is less,* to override the recommendation of the planning commission. *In no case shall a presiding officer who is not a member of the legislative body vote, except in the case of a tie, or exercise his veto power.*

(2) All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation, except that, in counties containing a city of the first class, any notice by newspaper shall be published thirty (30) days prior to the public hearing, and shall include the street address of the property in question, or if one is not available, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

Committee Amendment No. 1 to HB 139 is as follows:

Amend printed copy of HB 139:

on page 1, line 18, after the word "*tie*" by deleting the "*, or exercise his veto power*"

HB 140, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustments. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustments may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustments has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.329. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, and an owner of every parcel of property adjoining the property of which the application applies. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.

Committee Amendment No. 1 to HB 140 is as follows:

Amend printed copy of HB 140:

on page 4, line 13, after the "," by deleting the word "*and*";

and on page 4, line 14, after the words "*the property*" by deleting the word "*of*" and inserting in lieu thereof the word "*to*";

and on page 4, line 15, after the word "*applies*" and before the ".", by inserting the following language: "*and such other persons as the local zoning ordinance, regulations or board of adjustments bylaws shall direct*"

HB 181, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, *or any auxiliary police officer appointed pursuant to KRS 95.445,* elected to office or employed by any county or city or by the state; "fire fighter" means every paid fire fighter or volunteer fire fighter who is employed by or volunteers his services to the state, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer fire fighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, *or any auxiliary police officer appointed pursuant to KRS 95.445,* or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children. If there are no surviving children, the payment shall be made to any dependent parents of the deceased.

(3) The commission on fire protection personnel standards and education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer fire fighters, including but not limited to defining when a fire fighter has died in line of duty.

(4) The justice cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

HB 217, AN ACT relating to the dissolution of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.094 is amended to read as follows:

(1) If any city fails for one (1) year to maintain a city government by the election or appointment of officers and the levying and collection of necessary taxes, it may be dissolved by judgment of the circuit court on petition filed by a bona fide resident of the city.

(2) Defense to the petition for dissolution may be made by any voter or resident of the city.

(3) Judgment dissolving a city may not be entered until:

(a) Notice has been published pursuant to KRS Chapter 424 by order of the court fixing a date by which motion for intervention may be filed; and

(b) Provision for equitable disposition of all assets of the city and discharge of all obligations of the city has been made and approved by the court [~~A city may be dissolved by judgment of the circuit court on petition filed by a majority of the voters of the city. The petition shall contain the signature and address of each petitioner~~].

(4)[~~(3)~~] Each petition for dissolution shall be filed in the circuit court of the county in which the greater part of the city is located and shall set out the name and class of the city, a metes and bounds description of its boundaries, the number of voters and residents therein, and other facts relevant to the petition.

(5) Whenever any city is dissolved pursuant to this section the judgment shall direct the clerk of the circuit court wherein such judgment is rendered to certify a copy of said judgment not later than ten (10) days

thereafter to the secretary of state whose duty it shall be to properly index and file the same as a permanent record in that office.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) A city may be dissolved by a vote of the residents of the city pursuant to the public question procedure provided by KRS 83A.120. The question placed on the ballot shall read: "Are you in favor of the immediate dissolution of the City of ________? Yes _____ No _____"

(2) If a majority of those voting in the election favor the dissolution of the city, the city shall cease to be an incorporated city within thirty (30) days of the certification of the election results. The terms of all elected and appointed officers shall terminate at such time and all assets, debts and obligations of the city shall become the responsibility of the fiscal court of the county in which the city is located.

(3) The county clerk shall certify a copy of the election results dissolving the city not later than ten (10) days after such election to the secretary of state. The secretary of state shall record such dissolution in the records maintained in accordance with KRS 81.045.

Section 3. The following KRS section is repealed:

81.096 Defense—Criteria for judgment of dissolution—Certification to secretary of state.

Committee Amendment No. 1 to HB 217 is as follows:

Amend printed copy of HB 217:

On page 3, line 6, insert the following new subsections:

(4) For the purpose of winding up the affairs of a city dissolved pursuant to this section, the members of the legislative body of such city, upon dissolution of the city, shall be constituted as trustees for the dissolved city. As trustees they shall have the power to collect debts owed the city, pay creditors of the city and to sell or convey property of the city in order to satisfy the debts of the city. Upon the satisfaction of all the debts of the city and the winding up of the affairs of the city, the trustees shall convey all remaining property of the city to the fiscal court.

(5) If after the trustees have completed winding up the affairs of the city, but the assets were insufficient to satisfy all debts of the city, the fiscal court shall levy a property tax upon the property within the limits of the dissolved city for the purpose of paying such debt. Such tax shall be levied at the same time and in the same manner as county taxes and the proceeds of such tax shall be used for the sole purpose of paying the remaining debt of the dissolved city.

(6) The trustees of the dissolved city shall report monthly to the fiscal court and shall present a final accounting of all assets and debts of the dissolved city upon completion of the winding up.

HB 265, AN ACT relating to subdivision regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.273 is amended to read as follows:

(1) Any planning commission which has completed the objectives, land use plan, transportation plan, and community facilities elements of a comprehensive plan may adopt regulations for the subdivision of land within its boundaries.

(2) A county which does not wish to establish a planning program or form a planning unit may adopt regulations for the subdivision of land within its boundaries. In this case, the county shall be governed by the provisions of KRS 100.111(23), 100.277, 100.281, 100.283, 100.287 and 100.291, but any powers delegated to a planning commission in these sections shall instead be delegated to the fiscal court, any reference to the planning unit shall be considered a reference to the county, and any reference to the chairman of the planning commission shall be considered a reference to the county judge/executive.

Section 2. KRS 100.281 is amended to read as follows:

[~~All~~] Subdivision regulations shall be based on the comprehensive plan, *in those counties which have adopted a comprehensive plan,* and *all subdivision regulations* shall contain:

(1) The procedure for the submission and approval of preliminary and final plat and the recordation of final plats. The commission may delegate to its secretary or any other officer or employe the power to approve plats in accordance with the commission's adopted requirements, but all plats, preliminary and final, shall be approved or disapproved within ninety (90) days.

(2) Specifications for the contents and the format of all subdivision plats.

(3) Requirements for the design of streets, blocks, lots, utilities, recreation areas, other facilities, hazardous areas, and areas subject to flooding. Such requirements may deal with all forms of land use including residential, commercial, industrial, and other uses.

(4) Specifications for the physical improvements of streets, utilities, and other facilities, and the extent to which they shall be installed or dedicated as conditions precedent to approval of any plat, including the provision of subdivision performance bonds to insure proper completion of physical improvements.

(5) Specifications for the extent to which land is to be used for public purposes shall be reserved as a condition precedent to approval by the commission of any subdivision plat. The planning commission may require a reservation, not to exceed two (2) years, for parks, open space, school and other public uses.

HB 279, AN ACT relating to urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three per cent (3%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses. *A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses.* Provision shall be made for the collection of the tax and the enforcement of the tax measure enacted.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city which establishes a commission pursuant to subsections (1) or (2) of KRS 91A.350 is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property

involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(5) A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of this Act, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

Committee Amendment No. 1 to HB 279 is as follows:

Amend printed copy of HB 279:

On page 4, beginning on line 16, by adding the following language:

"Section 2. KRS 153.450 is amended to read as follows:

(1) In addition to the *four percent (4%)* [~~three percent (3%)~~] transient room tax authorized by KRS 91A.390 an urban-county government may levy an additional transient room tax not to exceed one percent (1%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations' businesses.

(2) All additional monies collected from the tax authorized by subsection (1) of this section shall be applied toward the retirement of bonds used to finance the Lexington Center Corporation.

(3) After the retirement of the bonds provided for in subsection (1) of this section the additional transient room tax levied by that subsection shall be null and void."

The Committee on Counties and Special Districts reported HB 81, HB 264 with Committee Amendment attached thereto and HB 282 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 81, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) If a district lies wholly within a single county, or operates as a single-county district as provided in paragraph (c) of this subsection, the board of commissioners shall be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. In the event of a merger of water districts as described in KRS 74.361, the county judge/executive may appoint up to two (2) additional commissioners with the approval of the fiscal court. Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court.

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges/executive with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single-county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) A commissioner may be removed from office as provided by KRS 65.007.

(3) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(4) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county judge/executive, conditioned on the faithful performance of the duties of his position.

(5) Each commissioner shall receive an annual salary of not more than *seventy-two hundred dollars ($7200)* [~~thirty-six hundred dollars ($3600)~~], which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multi-county districts it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district, and its ability to meet its obligations as they mature.

HB 264, AN ACT relating to subdivision roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.720 is amended to read as follows:

(1) Upon the creation of a subdivision road district as provided in KRS 179.700 to 179.735, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten (10) cents per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The trustees of a district may contract with the county containing the district to perform maintenance on or to provide personnel, materials or equipment for maintenance to be performed upon any road in the district. The county may maintain or provide personnel, materials or equipment for the maintenance of the roads of a district, so long as the district agrees to pay the county's costs of providing services, personnel, materials or equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the revenue cabinet.

(4)[~~(3)~~] Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

Committee Amendment No. 1 to HB 264 is as follows:

Amend printed copy of HB 264:

On page 1, line 18, by deleting the word "*costs*" and by substituting therefor "*total cost*".

HB 282, AN ACT relating to county personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.711 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 67.710(7) the county judge/executive of any county may appoint a deputy *county judge/executive, and a reasonable number of other assistants, secretaries and clerical workers as determined by the fiscal court,* who shall serve at his pleasure. *The fiscal court, pursuant to KRS 64.530(4), shall fix reasonable compensation for the deputy county judge/executive and such other employes.*

(2) The [~~Such~~] deputy *county judge/executive* may exercise all administrative powers, duties, and responsibilities of that office, and may assume such other responsibilities as shall be prescribed in the administrative code of the county, except that the deputy county judge/executive shall not act for the county judge/executive as a member or presiding officer of the fiscal court.

Committee Amendment No. 1 to HB 282 is as follows:

Amend printed copy of HB 282:

On page 1, line 5, by inserting after the word workers the following:

"*within the office of the county judge/executive*".

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill had been withdrawn from Committee consideration:

Business Organizations and Professions: HB 6.

Calendar

HB 132, HB 274, HB 292, HB 19, HB 169, HB 241, HB 306 and HB 322 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 34, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of Floor Amendment No. 1. Agreed.

Representative Mann moved that HB 34, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 22, 1986 roll call on HB 34—Appendix A.)

HB 34, as amended, was passed and the title agreed to.

Representative Mann moved the vote by which HB 34, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 58, taken from the Orders of the Day and ordered read at length for the third. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that HB 58 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 22, 1986, roll call on HB 58—Appendix A.)

HB 58 was passed and the title agreed to.

Representative Scorsone moved the vote by which HB 58 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178 with Floor Amendment and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to HB 178. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to HB 178. Agreed.

Representative Burch moved that HB 178, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 22, 1986, roll call on HB 178 as amended—Appendix A.)

HB 178, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which HB 178, as amended was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of Floor Amendment No. 1 to HB 199. Agreed.

Representative R. Jones moved that HB 199, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 22, 1986, roll call on HB 199—Appendix A.)

HB 199, as amended, was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 199, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 218, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rose moved the adoption of Committee Amendment No. 1 to HB 218. Agreed.

Representative Rose moved that HB 218, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 22, 1986, roll call on HB 218—Appendix.)

HB 218, as amended, was passed and the title agreed to.

Representative Rose moved that the vote by which HB 218, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 222, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that HB 222 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 22, 1986, roll call on HB 222—Appendix A.)

HB 222 was passed and the title agreed to.

Representative Lyne moved that the vote by which HB 222 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 223, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that HB 223 be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See January 22, 1986, roll call on HB 223—Appendix A.)

HB 223 was passed and the title agreed to.

Representative Lyne moved that the vote by which HB 223 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 228, with Committee Amendment attached thereto taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of the Committee Amendment No. 1 to HB 228. Agreed.

Representative M. Brown moved HB 228, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 22, 1986, roll call on HB 228, as amended—Appendix A.)

HB 228, as amended was passed and the title agreed to.

Representative M. Brown moved that the vote by which HB 228, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 239, with Committee Amendment attached thereto taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Amendment No. 1 to HB 239. Agreed.

Representative Kerr moved that HB 239, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See January 22, 1986, roll call on HB 239—Appendix A.)

HB 239, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 239, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 44 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that HB 44 be passed.

On the roll call the vote was: Yeas 85, Nays 3. (See January 22, 1986, roll call on HB 44—Appendix A.)

HB 44 was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 44 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that HB 147 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 22, 1986, roll call on HB 147—Appendix A.)

HB 147 was passed and the title agreed to.

Representative Lear moved that the vote by which HB 147 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 188 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that HB 188 be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 22, 1986, roll call on HB 188—Appendix A.)

HB 188 was passed and the title agreed to.

Representative Mann moved that the vote by which HB 188 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 428, by Representatives M. Brown and Deskins: AN ACT relating to hazardous waste.

HB 429, by Representative Barrows: AN ACT relating to petroleum products.

HB 430, by Representatives P. Clark, Bennett, and Cyrus: AN ACT relating to wages and hours.

HB 431, by Representatives Meyer, McBee, Crupper, Layman, Priddy, Mann, Rapier, and K. Harper: AN ACT relating to crime victim compensation.

HB 432, by Representatives Meyer, McBee, Crupper, Layman, Priddy, Mann, Rapier, and K. Harper: AN ACT relating to the distribution of service fees in driving under the influence cases.

HB 433, by Representatives Nett, P. Clark, Mann, Bronger, Yates, Heleringer, Ellington, Donnermeyer, and Riner: AN ACT relating to crimes and punishments.

HB 434, by Representatives Cyrus, Holbrook, Bennett, P. Clark, and Gray: AN ACT relating to motor vehicles.

HB 435, by Representatives Stone and Brinkley: AN ACT relating to the payment of wages.

HB 436, by Representatives Head, L. Clark, P. Clark, Bennett, Bronger, Priddy, Guenthner, Cowan, Gray, Holbrook, and M. Brown: AN ACT relating to volunteer fire department aid funds.

HB 437, by Representative Mann: AN ACT relating to public utility security deposits.

HB 438, by Representative Mann: AN ACT relating to officers of the public service commission.

HB 439, by Representative Mann: AN ACT relating to the Public Service Commission.

HB 440, by Representative Mann: AN ACT relating to the organization of the public service commission.

HB 441, by Representative Mann: AN ACT relating to the Public Service Commission.

HB 442, by Representative Mann: AN ACT relating to public utilities.

HB 443, by Representative Mann: AN ACT relating to natural gas pipelines.

HB 444, by Representative Mann: AN ACT relating to the Public Service Commission.

HB 445, by Representatives Jones and Lefevers: AN ACT relating to retirement benefits of alcoholic beverage control field representatives.

HB 446, by Representatives Moberly, Barrows, T. Jones, and Hancock: AN ACT relating to oil and gas.

HB 447, by Representatives Blevins, Burch, and Bendl: AN ACT relating to alcoholism, and declaring an emergency.

HB 448, by Representatives Rapier and Bendl: AN ACT relating to the personal care assistance program.

HB 449, by Representatives Cowan and Priddy: AN ACT relating to crimes and punishments.

HB 450, by Representative Cowan: AN ACT relating to evidence and providing for the waiver of certain professional/client privileges with regard thereto.

HR 37, by Representatives Bruce and Morris: A RESOLUTION in memory of Seldon Dixon of Hopkinsville.

HJR 38, by Representatives Nett, Long and Clarke: A JOINT RESOLUTION relating to the number of temporary personnel employed by the House of Representatives.

HCR 39, by Representative Barrows: A CONCURRENT RESOLUTION directing a study of the Office of Property Valuation Administrator.

HCR 40, BY Representatives Noe, Richards, T. Jones, Barrows, Mann, and Mack: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to conduct a study of long-term health care and in-home services for retired teachers.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for consideration:

Counties and Special Districts: HB 142, HB 374, HB 334.

Judiciary-Criminal: HB 39.

Education: HB 28, HB 298, HB 354, HB 370, HB 385.

Motions, Petitions and Communications (continued)

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills: Representative Bennett, HB 30; Representative Blevins, HB 24; Representative Brinkley, HB 19; Representative Bronger, HB 380; Representative M. Brown, HB 24; Representative Cowan, HB 149; Representative Dawahare, HB 285; Representative Ellington, HB 24; Representative J. Harper, HB 30; Representative T. Jones, HB 19; Representative Keith, HB 348; Representative Lear, HB 178; Representative Lyne, HB 24; Representative Noe, HB 53; Representative Preston, HB 285; Representative Priddy, HB 19; Representative Riner, HB 311; Representative Seum, HB 58; Representative Strong, HB 36; Representative White, HB 348; Representative Yates, HB 19.

The following member filed a request to have his name withdrawn as a co-sponsor: Representative Mann, HB 138.

Representative Bruce moved to suspend the rules to act on a Resolution. Agreed.

Representative Bruce moved the adoption of the following HR 37:

HR 37, A RESOLUTION in memory of Seldon Dixon of Hopkinsville.

WHEREAS, the tragic death of Mr. Seldon Dixon on January 16, 1986, left his Christian County friends and neighbors shocked and bereaved; and

WHEREAS, Seldon Dixon was a loving and devoted husband, father and grandfather; and

WHEREAS, Seldon Dixon will be remembered as a respected and well-loved member of his community and an outstanding and conscientious businessman;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House laments the untimely loss of Seldon Dixon and extends its sympathy to his family.

Section 2. That when the House adjourns this day, January 22, 1986, it does so in memory of Seldon Dixon.

Section 3. That a copy of this resoltuion be sent to Mrs. Seldon Dixon.

HR 37 was adopted by voice vote.

Representative P. Richardson moved that he be recorded as voting "Yea" on HB 116, HB 109, HB 63 and HB 20. Agreed.

Representative Yates moved that he be recorded as voting "Yea" on HB 223. Agreed.

Representative Burch moved that he be recorded as voting "Yea" on HB 239, HB 223, HB 218, and HB 58. Agreed.

Representative Bennett moved that HB 314 be withdrawn. Agreed.

Representative White moved that he be recorded as voting "Yea" on HB 223. Agreed.

Announcements

The following meetings were announced:

Natural Resources and Environment: January 23, 9:00 a.m.

Appropriations and Revenue: Subcommittee on Health: January 23, 10:00 a.m.

Energy: January 23, 1986, 12 Noon.

State Government: Subcommittee on General Government: January 22, 1986, 5:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 23, 1986.

On the roll call the vote was yeas 71—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, M. Brown, Burch, Caldwell, Clapp, L. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, J. Harper, K. Harper, Head, Hines, Holloway, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Little, Long, Lyne, Mack, Maggard, McBee, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson,

P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stone, Strong, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 7—Bruce, P. Clark, Holbrook, LeMaster, Lile, Preston, Williams.

The motion to adjourn was adopted.

THURSDAY, JANUARY 23, 1986

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Kevin Ulmet, Capital Church of the Nazarene.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Strong.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 22, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 451, by Representative Rapier: AN ACT relating to local government.

HB 452, by Representatives L. Clark, Bennett, and Thomas: AN ACT relating to dental hygiene.

HB 453, by Representative Johnson: AN ACT relating to decency in cable television programming.

HR 41, by Representative Freibert: A RESOLUTION commending the Kentucky Federation of Business and Professional Women's Clubs.

HB 454, by Representative Johnson: AN ACT relating to the disqualification of prosecuting attorneys, and declaring an emergency.

HB 455, by Representatives Blandford, Johnson, McElroy, and Noe: AN ACT relating to community colleges.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 432.

Business Organizations and Professions: HB 445.

Cities: HB 427, SB 3, SB 47, HB 426.

Counties and Special Districts: HB 436, HCR 39.

Education: HCR 40, SB 8, SB 43, SB 83, SB 91.

Energy: HB 437, HB 438, HB 439, HB 440, HB 441, HB 442, HB 443, HB 444.

Health and Welfare: HB 447, HB 448.

Judiciary-Criminal: HB 431, HB 433, HB 449, HB 450.

Labor and Industry: HB 429, HB 430, HB 435.

Natural Resources and Environment: HB 428, HB 446.

State Government: SB 2, SB 12, SB 13, SB 29, HJR 38.

Transportation: HB 434, SB 16.

Report of Committees

The Committee on Rules reported HB 132, HB 169, HB 241, HB 274, HB 292, HB 306 and HB 322 have been posted for passage in Orders of the Day, January 24, 1986.

The Committee on Rules reported HB 19 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Natural Resources and Environment reported HB 285 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 350.470 TO 350.550 IS CREATED TO READ AS FOLLOWS:

A two (2) year moratorium, beginning upon the effective date of this Act, is declared on promulgation of regulations pursuant to KRS Chapter 350. The only exceptions to this moratorium are:

(1) Regulations that only affect safety of miners or of the mining operation;

(2) Regulations which must be promulgated in order for the state to retain primacy for the surface mining program; and

(3) Regulations that must be promulgated as a result of an emergency declared by the governor of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

A two (2) year moratorium, beginning upon the effective date of this Act, is declared on promulgation of regulations pursuant to KRS Chapter 351 which relate to the conduct of deep mining. The only exceptions to this moratorium are:

(1) Regulations that only affect safety of miners or of the mining operation;

(2) Regulations which must be promulgated in order for the state to retain primary responsibility for the underground mining program; and

(3) Regulations that must be promulgated as a result of an emergency declared by the governor of the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

A two (2) year moratorium, beginning upon the effective date of this Act, is declared on promulgation of regulations pursuant to KRS Chapter 352 which relate to the conduct of deep mining. The only exceptions to this moratorium are:

(1) Regulations that only affect safety of miners or of the mining operation;

(2) Regulations which must be promulgated in order for the state to retain primary responsibility for the underground mining program; and

(3) Regulations that must be promulgated as a result of an emergency declared by the governor of the Commonwealth.

The Committee on State Government reported HB 8 with Committee Substitute and Committee Amendment attached thereto, HB 60, HB 158, HB 235, HB 268, HB 270 and HB 304 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

When there is an identified victim of a crime and the person who committed the crime is the subject of a parole hearing, the person or persons who were victims of the crime, or their next of kin (if the victim is deceased or disabled and cannot attend) shall be notified of the parole hearing not less than thirty (30) days before the date of the hearing. Notification shall be by mail, include the time, date and place, and a person to contact if the victim wishes to attend the hearing.

SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

At the parole hearing for a person who has committed a crime for which there is an identified victim or victims, all such victims (or their next of kin if the victim is deceased or disabled and cannot attend) shall have the right to attend the hearing and to make presentations personally, or by counsel, or both, before the parole board with regard to the crime, the impact of the crime upon the victim, the victim's views with regard to the release of the person, and such other information as the victim wishes to present to the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

Presentations by victims of crimes shall be held separately from and out of the presence of the prisoner unless the victim requests otherwise in writing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

Any right which a victim or his next of kin possesses may be asserted personally or through counsel with regard to presentations pursuant to this Act.

Committee Substitute to HB 8 is as follows:

HB 8, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission and at such intervals thereafter as it may determine, the corrections cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The corrections cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The corrections cabinet shall prepare a report on such information as it obtains. It shall be the duty of the corrections cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one (1) or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) Whenever an order for parole is issued it shall recite the conditions thereof.

(5) In addition to or in conjunction with the hearing conducted under subsection (2) of this section and prior to the granting of a parole to any prisoner, the parole board shall conduct a public hearing of which the following persons shall receive not less than thirty (30) days notice: The commonwealth attorney of every county in which the prisoner committed any crime for which he is imprisoned and all identified victims of such crime or crimes or the next of kin of any victim who is deceased. Such notice shall be by mail to the commonwealth attorney at his business office and to the last known address of the victims or their next of kin as provided by the commonwealth attorney to the corrections cabinet at the time of incarceration of the prisoner. The notice shall include the time, date and place of the hearing provided for in this subsection, and the name, address and telephone number of a person to contact in the event the recipient of the notice desires to attend the hearing.

(6) At the public hearing provided for in subsection (5) of this section, the commonwealth attorney and the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend shall have the right to appear and present evidence and arguments upon the issues before the parole board which shall include the crime, the impact of the crime upon the victims and the victims' views with regard to the granting of the parole. The crime victims or their next of kin may elect to make their presentations to the parole board outside of the presence of the prisoner.

(7) All rights and privileges afforded crime victims or their next of kin by subsections (5) and (6) of this section shall be exercisable personally or through counsel.

Title Amendment No. 1 to the Committee Substitute to HB 8 is as follows:

Amend printed copy of Committee Substitute to HB 8:

By amending the Title to read as follows:

"AN ACT relating to parole."

HB 60, AN ACT relating to persons who may attend executions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.250 is amended to read as follows:

The following persons, and no others, may attend an execution: The electrician and the warden of the penitentiary and his deputy or deputies and guards; the sheriff of the county in which the condemned was convicted; the secretary of the corrections cabinet and representatives of the corrections cabinet designated by him; the physician and chaplain of the penitentiary; a clergyman and three (3) other persons selected by the condemned; *nine (9) representatives of the news media as follows: one (1) representative from united press international wire service, one (1) representative from associated press wire service, one (1) representative from Kentucky network, inc., three (3) representatives for radio and television media within the state and three (3) representatives for newspapers within the state. Use of audio-visual equipment by the representatives is prohibited during the execution. The corrections cabinet shall issue administrative regulations which govern media representation during the execution* [~~one (1) representative of every newspaper published in the county in which the condemned was convicted, and one (1) representative of every daily newspaper published in the state~~].

HB 158, AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.225 is amended to read as follows:

(1) Any person desiring to vote on election day shall give his name and address to the clerk of the election. If the person's name is listed on the precinct list furnished by the state board of elections as provided in KRS 117.025 and if no challenge is made, he shall sign his name on the precinct list in the space opposite his printed name. The voter's signature shall constitute his verification that he is a properly registered and qualified voter. The voter shall then retire alone to cast his vote on the voting machine. [~~There shall be provided by~~] The county board of elections *may provide* to each precinct the original registration form of each voter entitled to vote in

that precinct. *These forms* [~~This form~~] shall be *used to compare signatures in those precincts to which the forms are provided* [~~for comparative signature purposes~~].

(2) If supplemental paper ballots are used, as provided in KRS 118.215, after voting on the voting machine the voter shall take the supplemental paper ballot with the stub intact and retire alone to the voting booth provided for voting paper ballots. After voting the supplemental paper ballot, the voter shall remove the numbered stub, hand the stub to an election official and deposit the voted ballot in the locked ballot box.

HB 235, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the department for health services within the cabinet for human resources affected by Executive Order 85-812. Such confirmation shall include the creation of the division of radiation and product safety and the division of food and sanitation within that department.

HB 268, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.520 is amended to read as follows:

(1) The department shall, with due regard to the program activities of the state and local agencies concerned, prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs, and make provisions for the economical and efficient management of records by state and local agencies by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value and by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records. The department may accept, administer and grant any money appropriated or granted to it, in addition to appropriations from the general fund, for providing and improving records management programs of state and local agencies.

(2) To effect the purposes of subsection (1) of this section, the department shall prepare a plan for a comprehensive records management system for Kentucky state government. This plan shall include a proposal for funding through cost allocation or other methods in lieu of a general fund appropriation. The plan shall provide for a records management certification program, to identify state agencies in compliance with records management practices implemented by the department, and shall be completed by July 1, 1987. The plan shall be submitted to the office of policy and management and the legislative research commission for evaluation.

(3) The department shall promulgate necessary rules and regulations for the furtherance of this section.

Section 2. KRS 171.640 is amended to read as follows:

The head of each state or local agency shall cause to be made and preserved records containing adequate and proper documentation of the organizational functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish information necessary to protect the legal and financial rights of the government and of persons directly affected by the agency's activities. *Such documentation shall be created, managed, and preserved in accordance with standards, rules and regulations prescribed by the department under the provisions of KRS 171.410 to 171.740.*

HB 270, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.107 is amended to read as follows:

As used in KRS 7.110, 7.320 and 48.800, unless the context otherwise requires:

(1) "Public agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city

governing body, council, school district board, special district board, municipal corporation, and any board, department, committee, subcommittee, ad hoc committee, council or agency thereof; and other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority;

(2) "Public record" means all [~~official~~] books, papers, *maps, photographs* [~~exhibits~~], cards, tapes, discs, diskettes, recordings, *magnetic or* electronic images, [~~electronic~~] optical images or other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency. *"Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs, or operations funded by state or local authority.*

Section 2. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884:

(1) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority.

(2) "Public *record* [~~records~~]" means all books, papers, maps, photographs, cards, tapes, discs, *diskettes,* recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority.

(3) "Official custodian" means the chief administrative officer or any other officer or employe of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

Section 3. KRS 171.410 is amended to read as follows:

As used in KRS 171.410 to 171.740:

(1) *"Public record or record"* [~~"Records"~~] means all books, papers, maps, photographs, cards, tapes, disks, *diskettes,* recordings, and other documentary materials, regardless of physical form or characteristics, *which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority* [~~made or received by any agency of the state government in pursuance of the state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein~~].

(2) "Department" means the department of library and archives.

(3) "Commission" means the state archives and records commission.

(4) "*Public* agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority.

Section 4. KRS 519.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves.

(2) "Public record" includes all [~~official~~] books, papers, *maps, photographs* [~~exhibits~~], cards, tapes, discs, diskettes, recordings, *magnetic or* electronic images, [~~electronic~~] optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency. *"Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs, or operations funded by state or local authority.*

(3) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

HB 304, AN ACT proposing to amend the Constitution of Kentucky relative to penitentiary prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 253 of the Constitution of Kentucky be amended to read as follows:

Persons convicted of felony and sentenced to confinement in the penitentiary shall be confined at labor within the walls of the penitentiary; *except that* [~~and~~] the General Assembly shall [~~not~~] have the power to authorize, *by general law,* employment of convicts [~~elsewhere, except~~] upon the public works of the Commonwealth of Kentucky, or *elsewhere* [~~when, during pestilence or in case of the destruction of the prison buildings, they cannot be confined in the penitentiary.~~

~~That section 253 of the Constitution be amended so that the Commonwealth of Kentucky may use and employ outside of the walls of the penitentiaries in such manner and means as may be provided by law, persons convicted of felony and sentenced to confinement in the penitentiary for the purpose of constructing or reconstructing and maintaining public roads and public bridges or for the purpose of making and preparing material for public roads and bridges, and that the Commonwealth of Kentucky may, by the use and employment of convict labor outside of the walls of the penitentiary by other ways or means, as may be provided by law, aid the counties for road and bridge purposes, work on the State farm or farms~~].

Section 2. It is proposed that Section 254 of the Constitution of Kentucky be amended to read as follows:

The Commonwealth shall maintain *responsibility for the* control of [~~the discipline, and provide for all supplies, and for the sanitary condition of the~~] convicts, *whether in the penitentiary or on work release* [~~and the labor only of convicts may be leased~~].

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

Committee Amendment No. 1 to HB 304 is as follows:

Amend printed copy of HB 304:

On page 1, line 9, after the word "*elsewhere*" by adding the words "*and the power to contract with private corporations for the operation of the penitentiary or the placement of prisoners in privately-operated correctional facilities*"; and

On page 2, line 10, after the word "*release*" by adding the words "*or in a privately-operated correctional facility*".

The Committee on Health and Welfare reported HB 41 with Committee Amendment attached thereto, HB 56, HB 205 with Committee Amendment attached thereto, and HB 255 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to occupational therapy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Board" means the Kentucky occupational therapy board appointed by the governor;

(2) "Occupational therapy" means the use of goal directed activities with individuals who are limited by physical limitations due to injury or illness, psychiatric and emotional disorders, developmental or learning disabilities, poverty and cultural differences or the aging process, in order to maximize independence, prevent disability and maintain health. The practice encompasses evaluation, treatment and consultation. Occupational therapy services include: teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing play skills and prevocational and leisure capacities; designing, fabricating, or applying selective orthotic and prosthetic devices or selective adaptive equipment; using specifically designed crafts and exercises to enhance functional performance; administering and interpreting tests such as manual muscle and range of motion; and consulting in the adaptation of the environment for the handicapped. These services shall be provided individually, in groups, or through medical, health, educational and social systems;

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter;

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the supervision of an occupational therapist;

(5) "Occupational therapy aide" means a person not licensed who assists in the practice of occupational therapy under the direct supervision of a licensed occupational therapist or occupational therapy assistant and who is required to have an understanding of occupational therapy but is not required to have professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy; and

(6) "Person" means any individual, partnership, or unincorporated organization, or corporation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

There is hereby created the Kentucky occupational therapy board which shall consist of five (5) members to be appointed by the governor. Three (3) members shall be licensed occupational therapists of at least five (5) years experience; one (1) member shall be a certified occupational therapy assistant, certified by the American occupational therapy association, of at least five (5) years experience in the practice of occupational therapy in the Commonwealth; and one (1) member shall be a consumer. The governor shall appoint the board within ninety (90) days after the effective date of this Act and annually thereafter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The terms of the members shall be for three (3) years and until their successors are appointed and qualified, except of those first appointed one (1) shall serve for one (1) year, two (2) shall serve for two (2) years and two (2) shall serve for three (3) years. Vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. The governor, after notice and opportunity for a hearing, may remove any *member of the board for malfeasance, neglect of duty, incompetency, or revocation or suspension of a license. Members of the board shall receive no salary but shall be allowed usual mileage, subsistence and per diem as provided by law for members of state boards, commissions, and committees. No member shall serve more than two (2) consecutive terms.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall meet at least annually and may meet at such other times as its bylaws provide. A majority of the members of the board shall constitute a quorum for the transaction of business. At its initial meeting the board shall elect from its membership a chairman, a vice-chairman and a secretary to serve for one-year terms. The board shall have the power to adopt bylaws and rules of procedure necessary to perform its duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board may employ an executive secretary and such clerical or other assistants as are necessary for the proper performance of its work and may make expenditures of its funds for any purpose which in the opinion of the board is necessary for proper performance of its duties, including compensation of the executive secretary and the premium on his bond.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The executive secretary or any other person so designated by the board shall give bond to the state in such sum as determined by the board to be approved by the state treasurer for the faithful performance of his duties. The secretary shall receive and account for all monies derived under the provisions of this chapter and shall pay such monies to the state treasurer who shall keep them in the manner provided for other such agencies and boards of the Commonwealth.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the qualifications of applicants for licensure.

(2) The board may issue subpoenas, examine witnesses, administer oaths and investigate allegations of practices violating the provisions of this chapter.

(3) The board may:

(a) Adopt rules and regulations, pursuant to KRS Chapter 13A, relating to professional conduct to carry out the provisions of this chapter, including but not limited to, regulations relating to professional licensure and holding a license to practice occupational therapy in the Commonwealth;

(b) Conduct such hearings and keep such records and minutes as are necessary to carry out its functions. The board shall provide public notice to the appropriate persons of the time and place within fourteen (14) days of all hearings authorized under this chapter;

(d) Evaluate the qualifications and authorize the issuance of licenses to qualified occupational therapists and occupational therapy assistants;

(e) Issue and renew licenses;

(f) Suspend or revoke licenses;

(g) Require the continuing professional education of persons subject to this chapter;

(h) Keep a record of its proceedings and a register of all persons licensed as occupational therapists or occupational therapy assistants. The register shall show the name of every licensee, the licensee's last known place of business and last known place of residence and the date and number of the license of each licensed occupational therapist or occupational therapy assistant. The board shall, during the month of January of every year, compile and make available a list of licensed occupational therapists and occupational therapy assistants authorized to practice in the Commonwealth. Any citizen of the Commonwealth may obtain a copy of the list upon application to the board and payment of such amount as may be fixed by the board, which shall not exceed its cost;

(i) Make an annual report to the general assembly which shall contain an account of duties performed, actions taken and appropriate recommendations; and

(j) In a contested case, subpoena witnesses, designated documents, papers, books, accounts, letters, photographs, objects or other tangible things. All legal process and all documents required by law to be served upon or filed with the board shall be served upon or filed with the chairman. All official records of the board or affidavits certifying the content of such records shall be prima facie evidence of all matters required to be kept therein.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to practice occupational therapy or render services designated as occupational therapy in the Commonwealth of Kentucky, unless licensed under the provisions of this chapter.

(2) The licensure of occupational therapists and occupational therapy assistants shall extend only to individuals. A license shall not be issued to a partnership, unincorporated association, corporation or similar business organization.

(3) A person shall not use the title "occupational therapist" or a title set forth in this chapter as it relates to the practice of occupational therapy unless such person is licensed and is in good standing in accordance with the requirements of this chapter. A person, health care institution, health care service, health plan or other institution holding itself out to the public as providing occupational therapy services shall not use such a title unless the occupational therapy services are provided by a person licensed under this chapter.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter shall not be construed as preventing or restricting the practices, services or activities of:

(1) A person licensed in accordance with the provisions of another law of the Commonwealth from engaging in the profession or occupation for which licensed;

(2) A person employed as an occupational therapist or an occupational therapy assistant by the United States government provided that person provides occupational therapy solely under the direction or control of the organization by which the person is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, provided the activities and services are part of a supervised course of study and the person is designated by a title which clearly indicates the status of student or trainee and not licensed occupational therapist;

(4) A person fulfilling the supervised fieldwork experience requirements of this chapter, provided such activities and services constitute a part of the experience necessary to meet the requirements of that program;

(5) Any person performing occupational therapy services in the Commonwealth, if these services are performed for no more than sixty (60) days in a calendar year in association with an occupational therapist licensed under this chapter, provided that:

(a) The person is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this chapter; or

(b) The person meets the requirements for certification as an occupational therapist registered or a certified occupational therapy assistant, as established by the American occupational therapy association;

(6) Any person employed as an occupational therapy aide.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A temporary permit to practice as an occupational therapist or occupational therapy assistant may be granted to a person who has completed the education and experience requirements of this chapter and has applied for licensure under the provisions of this chapter. The temporary permit shall allow the applicant for licensure to practice occupational therapy under the supervision of a licensed occupational therapist. The

temporary permit shall be valid until the applicant for licensure is issued or denied a license under the provisions of this chapter but in no instance shall the temporary permit extend for more than thirty (30) days following the first examination offered after the applicant has applied for licensure. Not more than one (1) temporary permit shall be granted per applicant.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall file a written application on a form provided by the board, showing to the satisfaction of the board that such person:

(a) Is of good moral character; and

(b) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(2) The occupational therapy educational program shall be accredited by the committee on allied health education and accreditation of the American medical association in collaboration with the American occupational therapy association, and shall be approved by the American occupational therapy association.

(3) An applicant shall submit to the board evidence of successful completion of a period of supervised fieldwork experience arranged by the recognized educational institution where the applicant met the academic requirements or by the American occupational therapy association. To be considered for licensure, the following minimum amount of supervised fieldwork experience shall have been completed:

(a) Six (6) months for an occupational therapist;

(b) Four (4) months for an occupational therapy assistant.

(4) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in Section 12 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Individuals applying for licensure, except as provided in Section 14 of this Act, shall be required to pass a written examination approved by the board, which is designed to test the knowledge and experience necessary to the safe, effective and professional practice of occupational therapy in Kentucky. The examination shall test the applicant's knowledge of the basic and clinical sciences related to the occupational therapy techniques and methods, and such other subjects as the board may require to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapists and occupational therapy assistants and establish standards for acceptable performance.

(2) Applicants for licensure shall be examined at a time and place determined by the board. The exam shall be given at least twice a year. The board shall notify applicants by mail of the time and place of scheduled examinations.

(3) Individuals applying for licensure shall remit an examination fee, to be determined by the board, prior to admission to take the written examination, using forms provided by the board. A person who fails an examination may apply for reexamination to the board accompanied by the prescribed fee.

(4) Applicants for licensure may obtain their examination scores and may review but not copy or remove from the premises of the board their own graded examination papers in accordance with such rules and regulations as the board may establish pursuant to KRS Chapter 13A.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant may be licensed as an occupational therapist if he:

(1) Practiced as a certified occupational therapy assistant for four (4) years;

(2) Has completed the requirements of Section 11(3) of this Act; and

(3) Has passed the examination for occupational therapists required by Section 12 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

On the payment to the board of fees required by this chapter and on submission of a written application on forms provided by the board, the board shall issue a license to:

(1) A person paying the fee and filing an application within one (1) year from the effective date of this Act who presents evidence satisfactory to the board that the applicant was an occupational therapist registered or a certified occupational therapy assistant through the certification of the American occupational therapy association prior to the effective date of this Act; and

(2) A person paying the fee and filing an application who presents evidence satisfactory to the board of being licensed, certified or registered as an occupational therapist or occupational therapy assistant by another state, territory of the United States or the District of Columbia, or of being a certified occupational therapist or certified occupational therapy assistant through the American occupational therapy association and of residing in or practicing in another state or territory of the United States or the District of Columbia where the requirements for licensure, registration or certification are substantially equal to the requirements set forth in this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall issue a license to an individual who has met the requirements of this chapter upon the payment of the applicable license fee. An individual who is issued a license as an occupational therapist under the provisions of this chapter may use the title "licensed occupational therapist," or use the letters "L.O.T.R." in connection with the title or place of business to denote his licensure. A person who is issued a license as an occupational therapy assistant may use the words "licensed occupational therapy assistant" or may use the letters "L.O.T.A." in connection with the person's name or place of business to denote licensure.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Licenses issued under this chapter shall be subject to annual renewal and shall expire unless renewed upon the payment of a renewal fee in the manner prescribed by the rules of the board. The board may set a required number of continuing education units for license renewal. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but no such renewal of a license may be granted more than five (5) years after its expiration.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement shall pay the renewal fee and any late fee that may be applicable.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Fees shall be collected and determined by the board for the following:

(1) Initial license fee (nonrefundable):

(a) Registered occupational therapist, not to exceed fifty dollars ($50); and

(b) Certified occupational therapy assistant, not to exceed thirty-five dollars ($35).

(2) Renewal of license fees, not to exceed fifty dollars ($50); and

(3) Late renewal fees, not to exceed seventy-five dollars ($75).

SECTION 18. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Foreign trained occupational therapists and occupational therapy assistants who apply to be licensed by the board shall, before examination, furnish proof of good moral character and shall present proof indicating the completion of educational requirements substantially equal to those contained in Section 13 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include:

(a) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(b) Unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;

(c) Being convicted of a felony in any court if the acts for which he was convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a registered occupational therapist or certified occupational therapy assistant;

(d) Violating any lawful order, rule, or regulation rendered or adopted by the board; or

(e) Violating any provision of this chapter.

(2) Such denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after a hearing in a manner provided by the rules adopted by the board. One (1) year from the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement, but shall be required to hold a hearing to consider such reinstatement.

SECTION 20. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by an order of the board denying, suspending or revoking his license may appeal to the Franklin circuit court within thirty (30) days after entry of said order, for appropriate relief. On such appeal the scope of review shall be limited to an examination of the record of the board's action for the purpose of determining whether the board abused its discretion. The appellant shall furnish the court with a properly certified transcript of any evidence heard by the board, and the court may refuse to review any findings of fact made by the board unless such a transcript is filed within sixty (60) days after the filing of the appeal.

SECTION 21. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Occupational Therapy Practice Act."

SECTION 22. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this Act shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

Section 23. (1) The initial occupational therapy appointees to the Kentucky occupational therapy board shall not be required to be licensed under the provisions of this Act.

(2) Persons who meet the criteria of Section 11 of this Act and who have been practicing as an occupational therapist certified by the American occupational therapy association or as an occupational therapy assistant certified by the American occupational therapy association for at least six (6) months prior to the effective date of this Act may be granted licenses pursuant to this Act without taking the examination required by subsection (4) of Section 11 of this Act.

Committee Amendment No. 1 to HB 41 is as follows:

Amend printed copy of HB 41:

On page 1, line 20,

By deleting the word "*exercises*" and inserting in lieu thereof the words "*therapeutic activities*";

And on page 2, line 4,

By inserting after the words "*social systems*" the following:

"*. The practice of occupational therapy shall not include gait training; the use or application of thermal or electromodalities; accessory joint mobilizations; assessment of integrity and pathology of muscle, soft tissue and joint capsule; and postural or biomechanical analysis*"

HB 56, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its *genetic* [~~birth~~] parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Except where a *genetic* [~~natural~~] parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its *genetic* [~~birth~~] parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) The nonidentifying health history of the genetic parents and blood relatives, if known, of the adopted person, in writing, on a standardized form provided by the department for social services, shall be given by the department or child-placing agency which has such information, to:

(a) The adoptive parents and to the circuit court not later than the date of finalization of the adoption proceedings; and

(b) Any adult adopted person, aged eighteen (18) years of age or older, upon the request in person or in writing of the adult adopted person.

Section 2. The reviser of statutes shall whenever the phrases "natural parent" or "natural parents" or "birth parent" or "birth parents" appear in the Kentucky Revised Statutes change them so as to read "genetic parent" or "genetic parents."

HB 205, AN ACT relating to personal needs allowances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act "personal needs allowance" means any funds made available by the cabinet for human resources to a resident of a personal care home, family care home, intermediate care facility, skilled nursing facility, or intermediate care facility for the mentally retarded and developmentally disabled for clothing and other needs as determined by the resident.

(2) The standard for payment for any state supplementation made for residents of family care homes and personal care homes, when provided in accordance with KRS 205.245, shall include a personal needs allowance of at least fifty dollars ($50) per month.

(3) The personal needs allowance hereby authorized for individuals residing in an intermediate care facility, skilled nursing facility, or intermediate care facility for the mentally retarded and developmentally disabled, and whose cost of care qualifies for reimbursement for medical assistance shall be at least fifty dollars ($50) per month.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall make provision for a random, annual audit of fifteen percent (15%) of the personal care homes, family care homes, skilled nursing facilities, intermediate care facilities and intermediate care facilities for the mentally retarded and developmentally disabled in the Commonwealth, to ensure neither the institution nor any other person responsible for the financial needs of the resident abuse the funds provided by the cabinet for human resources for the resident's personal needs allowance as authorized in Section 1 of this Act.

Committee Amendment No. 1 to HB 205 is as follows:

Amend printed copy of HB 205:

On page 2, after line 13:

by inserting the following:

"Section 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Any person or institution who abuses funds provided by the cabinet for human resources for the resident's personal needs allowance shall be guilty of a class B misdemeanor. In addition to imposition of a fine, the person or institution shall be required to pay restitution to the aggrieved resident of the personal care home, family care home, or intermediate care facility for the mentally retarded and developmentally disabled in an amount equal of the amount of funds which were abused."

HB 255, AN ACT relating to public health.

WHEREAS, the legislature recognizes that unnecessarily hot tap or bath water creates an extreme risk of severe burns and even death, especially among the elderly and children; and

WHEREAS, annually, numerous people suffer severe scald burns, some resulting in death, from tap or bath water which is excessively hot; and

WHEREAS, the regulation of the setting of water temperatures on hot water heaters can virtually eliminate the incidence of severe scald; and

WHEREAS, regulating temperature settings on hot water heater thermostats to one hundred thirty degrees Fahrenheit (130 degrees F.) or fifty four point four degrees Celcius (54.4 degrees C.) would save energy that is unnecessarily consumed, reduce homeowners' utility costs, and promote home safety without any loss of health or comfort;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires: "Hot water heater" means the primary source of hot water for a residence.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The thermostat of a new water heater offered for sale in this state for use in a residential unit shall be preset by the seller at a temperature no higher than one hundred thirty degrees Fahrenheit (130 degrees F.) or fifty four point four degrees Celcius (54.4 degrees C.) or, if the water heater cannot be set that low, at the minimum temperature.

(2) Nothing in this section shall preclude the owner of an owner-occupied residential unit or the resident of a leased or rented residential unit from readjusting the temperature setting after occupancy.

(3) Nothing in this section requires or permits any inspections other than those otherwise required or permitted by law.

Committee Amendment No. 1 to HB 255 is as follows:

Amend printed copy of HB 255:

On page 1, line 1,

by deleting after "KRS CHAPTER" the number "211"

and by inserting in lieu thereof the number "318."

On page 2, line 3,

by deleting after "KRS CHAPTER" the number "211"

and by inserting in lieu thereof the number "318."

Posting of Bills and Resolutions

The Clerk announced the following Bill has been posted for Committee consideration:

Agriculture and Small Business: HB 342.

Calendar

HB 59, HB 150, HB 154, HB 139, HB 140, HB 181, HB 217, HB 265, HB 279, HB 81, HB 264, and HB 282 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 5, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to HB 5. Agreed.

Representative Burch moved that HB 5, as amended, be passed.

On the roll call the vote was: Yeas 67, Nays 24. (See January 23, 1986, roll call on HB 5—Appendix A.)

HB 5, by way of Committee Substitute was passed and the title agreed to.

Representative Burch moved that the vote by which HB 5, by way of Committee Substitute was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message.

Announcing passage of SB 50, SB 51, SB 52, SB 53 and SB 54.

Orders of the Day (continued)

HB 52 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that HB 52 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 23, 1986, roll call on HB 52—Appendix A.)

HB 52 was passed and the title agreed to.

Representative Long moved that the vote by which HB 52 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SCR 10 has been examined and found correctly enrolled. SCR 10, read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 80 taken from Orders of the Day and read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that HB 80, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 23, 1986, roll call on HB 80—Appendix A.)

HB 80 was passed and the title agreed to.

Representative Long moved that the vote by which HB 80 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 11 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that HB 11 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 23, 1986, roll call on HB 11—Appendix A.)

HB 11 was passed and the title agreed to.

Representative Hancock moved that the vote by which HB 11 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 456, by Representatives Noland, J. Harper, Head, Lefevers, McElroy, Gedling and Reinhardt: AN ACT relating to discounts for disabled persons.

HB 457, by Representative Reinhardt: AN ACT relating to cemeteries.

HB 458, by Representatives Reinhardt and Crupper: AN ACT relating to health insurance.

HB 459, by Representative Reinhardt: AN ACT relating to legislative compensation.

HB 460, by Representatives Smith, Morris, Bruce and Brinkley: AN ACT relating to insurance.

HB 461, by Representatives Bronger, Mann, Donnermeyer, Riner, Holbrook, Brinkley, Stone, Burch, Strong, Seum, Rose, Little, K. Harper, Crupper, Smith, O'Brien, Richards, Moberly, Yates, Nett, L. Clark, Blevins, Clapp, Burnette, Noe and Heleringer: AN ACT relating to motor vehicle usage tax.

HB 462, by Representatives Moberly, Blevins, Curd and Richards: AN ACT relating to university boards of regents.

HB 463, by Representative Donnermeyer: AN ACT relating to crimes and punishments.

HB 464, by Representative McNutt: AN ACT relating to occupational license fees.

Report of Committees (continued)

The Committee on Health and Welfare reported HCR 7 with Committee Substitute and Title Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 7, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the future availability of nursing home beds and whether the Commonwealth should build its own long-term care facilities to care for medical assistance patients.

WHEREAS, in FY 1985 the Commonwealth expended in excess of $200,000,000 on care for medical assistance recipients in skilled nursing facilities, intermediate care facilities and intermediate care facilities for the mentally retarded; and

WHEREAS, in FY 1985 approximately 80% of all intermediate care beds and 60% of all skilled nursing facility beds were occupied by medical assistance recipients; and

WHEREAS, the 1987 population of Kentuckians aged 65 and over is projected to exceed 500,000 by 1990, an increase of nearly 100,000 persons since 1980;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study on the future availability of long-term care beds in Kentucky.

Section 2. The study should also consider whether it would be advisable for the Commonwealth to construct and operate its own long-term care facilities for medicaid recipients.

Section 3. The Legislative Research Commission shall develop a report on the future need for long-term care facilities in the Commonwealth, potential sources of funding for such facilities, and steps the General Assembly might take to insure that adequate and sufficient care is available to all the citizens of the Commonwealth, regardless of their ability to pay.

Section 4. The Legislative Research Commission shall submit its report to the General Assembly no later than March 1, 1987.

Section 5. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Committee Substitute to HCR 7 is as follows:

HCR 7, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the future availability of nursing home beds and whether the Commonwealth should build its own long-term care facilities to care for medical assistance patients.

WHEREAS, in FY 1985 the Commonwealth expended in excess of $200,000,000 on care for medical assistance recipients in skilled nursing facilities, intermediate care facilities and intermediate care facilities for the mentally retarded; and

WHEREAS, in FY 1985 approximately 80% of all intermediate care beds and 60% of all skilled nursing facility beds were occupied by medical assistance recipients; and

WHEREAS, the population of Kentuckians aged 65 and over is projected to exceed 500,000 by 1990, an increase of nearly 100,000 persons since 1980;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study on the future availability in the Commonwealth of long-term care services, including facilities and in-home services.

Section 2. The Legislative Research Commission shall study and make recommendations on the future need for long-term care services, including facilities and in-home services in the Commonwealth, potential sources of funding for such facilities and services, and steps the General Assembly might take to insure that adequate and sufficient care is available to all the citizens of the Commonwealth, regardless of their ability to pay.

Section 3. The Legislative Research Commission shall complete its report no later than July 1, 1987.

Section 4. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Title Amendment No. 1 to Committee Substitute to HCR 7 is as follows:

Amend printed copy of HCR 7:

Amend the Title to read as follows:

"A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the future availability of long-term care services in the Commonwealth."

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Education: HB 24, HB 105, HB 299, HCR 34.

Counties and Special Districts: HB 368.

Natural Resources and Environment: HCR 5.

Judiciary-Civil: HB 383, HB 164, HB 148.

Judiciary-Criminal: HB 263, HB 216, HB 413.

Motions, Petitions and Communications (continued)

The following Floor Amendments were filed:

Floor Amendment No. 1 to HB 45, by Representative Seum:

Amend printed copy of HB 45:

Start on page 2, line 19, after the "." insert the following language.

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of three thousand dollars ($3,000) [~~two thousand five hundred dollars ($2,500)~~] for each qualified police officer it employs.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of three thousand dollars ($3,000) [~~two thousand five hundred dollars ($2,500)~~] for each qualified professional fire fighter it employs.

(2) Each qualified professional fire fighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified fire fighter shall be in addition to his regular salary.

Floor Amendment No. 1 to HB 37, by Representative Mann:

Amend printed copy of HB 37:

On page 2, line 25, by deleting the words "*directly or indirectly attributable to the*", and adding in lieu thereof the words "*establishing a pattern of intemperate*".

Floor Amend No. 2 to HB 37, by Representative Mann:

Amend printed copy of HB 37:

On page 2, line 26, after the word "*liquors*" by adding the words "*if the nature of the offenses would negatively reflect on the ability of the person to effectively perform the employment involved,*".

Representative Donnermeyer moved that he be recorded as voting "Yea" on HB 80. Agreed.

Representative Morris moved that HB 253 be withdrawn. Agreed.

Representative Reinhardt moved that HB 106 be withdrawn. Agreed.

Representative Bendl moved that she be recorded as voting "Yea" on HB 11. Agreed.

Representative Johnson moved that HB 146 be withdrawn. Agreed.

Announcements

The following meetings were announced:

Committee on Health: Appropriations and Revenue Subcommittee: January 23, 1986, 3:30 p.m.

Committee On Transportation: Budget Review: January 24, 1986, 8:30 a.m.

Rules, on adjournment, Room 327.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, January 24, 1986.

On the roll call the vote was yeas 76—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noland, Pearman, Priddy, Pritchett, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Rose, Siler, Smith, Stewart, Stone, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 9—Blevins, Cowan, Deskins, Holbrook, R. Jones, LeMaster, Overstreet, Preston, Williams.

The motion to adjourn was adopted.

FRIDAY, JANUARY 24, 1986

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Frances Brown came forward and produced her Certificate of Election. The oath of office was administered by Circuit Judge Ralph N. Walter, West Liberty, Kentucky.

The roll was called. All members present except Representatives Farrow and Rapier.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 23, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 465, by Representatives Bendl, Mack, Bennett, Blevins, Bronger, L. Clark, P. Clark, Cline, Cowan, Deskins, Donnermeyer, Freibert, Hancock, Handy, J. Harper, Heleringer, Hines, T. Jones, Lile, Little, Long, Lyne, Mann, McNutt, Meyer, Nett, Noe, Priddy, Reinhardt, P. Richardson, Riner, Rose, Stewart, Thomas, and White: AN ACT relating to medical assistance.

HB 466, by Representative Scorsone: AN ACT relating to transfers to minors.

HB 467, by Representative Scorsone: AN ACT relating to probate and related matters.

HB 468, by Representatives Mack and Stumbo: AN ACT confirming the establishment of the governor's financial policy council.

HB 469, by Representative Mann: AN ACT relating to medicaid reimbursement of non-steroidal anti-inflammatory drugs.

HR 42, by Representative Burch: A RESOLUTION honoring Thomas Jefferson Middle School.

HR 43, by Representative Hancock: A RESOLUTION honoring Kentucky State University upon the occasion of its 100th anniversary.

HR 44, by Representative Meyer: A RESOLUTION adjourning the House of Representatives in memory and honor of Jack Werff.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Appropriations and Revenue: HB 461, HB 464.

Banking and Insurance: HB 460.

Business Organizations and Professions: HB 452, HB 457.

Cities: HB 451.

Counties and Special Districts: HB 458.

Education: HB 455, HB 462.

Judiciary-Criminal: HB 453, HB 463.

State Government: HB 454, HB 456, HB 459, SB 50, SB 51, SB 52, SB 53, SB 54.

Report of Committees

The Committee on Rules reported HB 81, HB 139, HB 140, HB 217, HB 264, HB 265, HB 279, and HB 282 have been posted for passage in Orders of the Day, January 27, 1986.

The Committee on Rules reported HB 59 has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: SB 73, SB 104, HB 405, HB 2, HB 388.

Transportation: HB 333, HB 434, HB 315, HB 293.

Banking and Insurance: HB 162.

Counties and Special Districts: HB 347.

Health and Welfare: HB 376, HB 448, HB 404, HB 78.

Judiciary-Criminal: HB 422, HB 76.

Senate Message

Announcing passage of SB 17, SB 21, SB 55, SB 56, SB 57, SB 58, SB 59, SB 61, SB 69, SB 92, SB 98, SB 105, SB 106, SB 130, SB 140 and SB 142.

Calendar

HB 285, HB 8, HB 60, HB 158, HB 235, HB 268, HB 270, HB 304, HB 41, HB 56, HB 205, HB 255 and HCR 7 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 292, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that HB 292 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 24, 1986, roll call on HB 292—Appendix A.)

HB 292 was passed and the title agreed to.

Representative Little moved that the vote by which HB 292 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 30 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that HB 30 be passed.

On the roll call the vote was: Yeas 94, Nays 3. (See January 24, 1986, roll call on HB 30—Appendix A.)

HB 30 was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 30 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 169 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that HB 169 be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See January 24, 1986, roll call on HB 169—Appendix A.)

HB 169 was passed and the title agreed to.

Representative L. Clark moved that the vote by which HB 169 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 37, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of Committee Amendment No. 1 to HB 37. Agreed.

Representative Mann moved the adoption of Floor amendment No. 1 to HB 37. Agreed.

Representative Mann moved that HB 37, as amended be passed.

On the roll call the vote was: Yeas 56, Nays 29. (See January 24, 1986 roll call on HB 37—Appendix A.)

HB 37, with Committee Amendment No. 1 and Floor Amendment No. 1 was passed and the title agreed to.

Representative Mann moved that the vote by which HB 37, was amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to HB 132. Agreed.

Representative Cyrus moved that HB 132, as amended be passed.

The vote was 88 yeas, 8 nays.

HB 132, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 132, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Freibert moved to suspend the rules to act on a Resolution. Agreed.

Representative Freibert moved the adoption of the following HR 41:

HR 41, A RESOLUTION commending the Kentucky Federation of Business and Professional Women's Clubs.

WHEREAS, the Kentucky Federation of Business and Professional Women's Clubs is composed of 2,800 outstanding Kentucky women; and

WHEREAS, the Kentucky Federation of Business and Professional Women's Clubs has for many years encouraged and educated its members to be involved in the activities of government; and

WHEREAS, the Kentucky Federation of Business and Professional Women's Clubs has produced from its membership many outstanding citizens, elected officials and public servants; and

WHEREAS, the Kentucky Federation of Business and Professional Women's Clubs is holding its legislative conference here in Frankfort from Thursday, January 23rd through Sunday, January 26th;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the members of the Kentucky Federation of Business and Professional Women's Clubs be commended for their interest in the General Assembly and the legislative process as evidenced by their legislative conference.

HR 41 was adopted by voice vote.

Representative Burch moved to suspend the rules to act on a Resolution. Agreed.

Representative Burch moved the adoption of the following HR 42:

HR 42, A RESOLUTION honoring Thomas Jefferson Middle School.

WHEREAS, the Thomas Jefferson Middle School was opened in August of 1981 amid controversy and hostility over the closing of the Thomas Jefferson High School in the Newburg community of Jefferson County; and

WHEREAS, located in a vandalism prone area, the Thomas Jefferson Middle School was quickly filled to twice the recommended capacity with 1,600 middle school students; and

WHEREAS, most of the teachers and counselors assembled to staff Thomas Jefferson were from schools that had been closed and in addition, had either worked at the elementary or high school level and were unfamiliar with teaching children of middle school age; and

WHEREAS, in spite of the aforementioned adversities, Principal Ron Barber and the entire staff of the Thomas Jefferson Middle School were determined to see the students excel in academic achievements, as well as see Thomas Jefferson become an exemplary school; and

WHEREAS, in only four short years the Thomas Jefferson Middle School was selected as one of the two first middle schools in Kentucky to receive the U.S. Department of Education Secondary School Recognition Program "Exemplary School" Award; and

WHEREAS, Thomas Jefferson Middle School was selected to receive this prestigious award from out of 509 schools nominated by the chief state school officers in 48 states, the District of Columbia and the Department of Defense Overseas Dependents' Schools; and

WHEREAS, the recognition program seeks to identify and pay tribute to secondary schools that are unusually successful in meeting the educational needs of *all* of their students, and to offer outstanding models to other schools; and

WHEREAS, the Thomas Jefferson Middle School was judged for 14 attributes of success (clear academic goals; high expectations for students; order and discipline; rewards and incentives for students; regular and frequent monitoring of student progress; opportunities for meaningful student responsibility and participation; teacher efficacy; rewards and incentives for teachers; concentration on academic learning time; positive school climate; administrative leadership; well-articulated curriculum; evaluation for instructional improvement; and community support and involvement); and

WHEREAS, Thomas Jefferson was also judged for 7 indicators of effective school programs (student performance on standard achievement tests and minimum competency tests; student success in high school; daily student and teacher attendance rates; rates of student suspensions; awards for outstanding school programs and teaching; and student awards in academic or vocational competitions); and

WHEREAS, three out of the last four years, Thomas Jefferson Middle School has had the highest average for a daily attendance of middle schools in the district, first place winners in the county spelling bee, and national and state winners in the Olympics of the Mind;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly hails and honors the Thomas Jefferson Middle School, Principal Ron Barber, and Principal Sam Hosbach upon being selected as an "Exemplary School."

Section 2. That this honorable body commends the unselfish dedication and unending devotion of the teachers, counselors and parents to the students of Thomas Jefferson Middle School.

Section 3. That the House recognizes the standard of academic excellence established by the administration and student body of Thomas Jefferson Middle School and encourages the entire educational community to follow the example set by this remarkable public school.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Thomas Jefferson Middle School Principal Sam Hosbach, Mr. Ron Barber, Executive Director of Middle School Administration for the Jefferson County School System, and Jefferson County School Superintendent Donald W. Ingwerson.

HR 42 was adopted by voice vote.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 470, by Representatives Priddy, Seum, Holloway, Yates, Heleringer, L. Clark, Gedling, Burch, Guenthner, O'Brien and P. Clark: AN ACT relating to the arrest powers of peace officers.

HB 471, by Representatives Richards and Noe: AN ACT relating to local boards of education.

HB 472, by Representatives Mann and Burch: AN ACT relating to prescription drug reimbursement under the Kentucky Medical Assistance Program.

HB 473, by Representatives Freibert, Lear, Caldwell, Long and R. Jones: AN ACT relating to economic development bonds.

HB 474, by Representatives Mann and Burch: AN ACT relating to prescription drug reimbursement under the Kentucky Medical Assistance Program.

HB 475, by Representatives Bennett and Gray: AN ACT relating to public employes.

HB 476, by Representative Pearman: AN ACT relating to steel snares.

HB 477, by Representatives Donnermeyer and Heleringer: AN ACT relating to public health and declaring an emergency.

HR 45, by Representatives Cowan, Burch and Priddy: A RESOLUTION honoring the University of Louisville varsity cheerleading squad.

Report of Committees

The Committee on Judiciary Criminal reported HB 77 with Committee Amendment attached thereto, HB 243 and HB 390 with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 77, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Dealer in property" means a person who buys and sells property as a business.

(2) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(3)[~~(2)~~] "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(4)[~~(3)~~] "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(5)[~~(4)~~] "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(6)[~~(5)~~] "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(7)[~~(6)~~] "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(8)[~~(7)~~] "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(9)[~~(8)~~] "Receiving" means acquiring possession, control or title or lending on the security of the property.

(10)[~~(9)~~] "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(11) "Stolen property" means property that has been the subject of any unlawful taking.

(12)[~~(10)~~] "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(13)[~~(11)~~] "Tax return" means any return, declaration, report or form issued or prescribed by the revenue cabinet and required to be filed with the revenue cabinet as prescribed by law.

(14) "Traffic" means to sell, transfer, distribute, dispense or otherwise dispose of stolen property to another person, or to buy, receive, possess or obtain control of stolen property, with the intent to sell, transfer, distribute, dispense or otherwise dispose of to another person.

Section 2. KRS 514.020 is amended to read as follows:

(1) It is a defense to prosecution for theft that the actor:

(a) Was unaware that the property or service was that of another; or

(b) Acted under a claim of right to the property or service involved or a claim that he had a right to acquire or dispose of it as he did; or

(c) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

(2) It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it involves the property of the other spouse and only if it occurs after the parties have ceased living together.

(3) It shall be prima facie evidence of intent to commit theft by deception when one who has leased or rented the personal property of another fails to return the personal property to its owner within ten (10) days after the lease or rental agreement has expired. It shall also be prima facie evidence of intent to commit theft by deception when one presents to the owner identification which is false, fictitious or not current as to name, address, place of employment or other items of identification for the purpose of obtaining the lease or rental agreement. Nothing herein contained shall relieve the owner from making demand for return of property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement shall constitute proper demand.

(4) In an action relating to stolen property:

(a) Proof of possession of property recently stolen, unless satisfactorily explained, gives rise to an inference that the person in possession of the property was aware of the risk that it had been stolen or in some way participated in its theft;

(b) Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen; and

(c) Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

SECTION 3. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person who knowingly initiates, organizes, plans, finances, directs, manages or supervises the theft or trafficking in the property of another that has been stolen by a person other than the defendant is guilty of trafficking in stolen property in the first degree.

(2) Trafficking in stolen property in the first degree is a Class B felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person who traffics in the property of another that has been stolen is guilty of trafficking in stolen property in the second degree.

(2) Trafficking in stolen property in the second degree is:

(a) For a first offense, a Class A misdemeanor unless the value of the property is one hundred dollars ($100) or more, in which case it is a Class D felony; and

(b) For a second or subsequent offense, a Class C felony.

Committee Amendment No. 1 to HB 77 is as follows:

Amend printed copy of HB 77:

on page 5, line 20, following "*explained,*" to add the following:

"*is prima facie evidence*" and to delete "*gives rise to an*".

and on page 5, line 21, to delete "*inference*".

and on page 5, line 26, following "*explained,*" to add "*is prima facie evidence*" and to delete "*gives rise to an*".

and on page 6, line 1, to delete "*inference*".

and on page 6, line 7, at the beginning of the line to add "*is prima facie evidence*" and to delete "*gives rise to an inference*".

and on page 7, line 1, following "*property*" to add "*from one or more persons totals*" and to delete the words "*is one*" and to insert "*three*".

and on page 7, line 2, to delete "*($100)*" and to insert "*($300) in any six (6) month period*".

HB 243, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when*:*

(a) With recklessness he causes or attempts to cause physical injury to a state, county, city, or federal peace officer, *employe of a detention facility,* or probation and parole officer by means of a deadly weapon or a dangerous instrument*; or*

(b) Being a person confined in a detention facility he inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employe of the detention facility.

(2) Assault in the third degree is a Class D felony.

HB 390, AN ACT relating to crime victims and witnesses providing for their rights and protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 through 9 of this Act, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as murder, robbery, rape, assault, sodomy, kidnapping, burglary, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court appointed special advocate. If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in Sections 1 through 8 of this Act:

(a) The spouse;

(b) An adult child if paragraph (a) of this subsection does not apply;

(c) A parent if paragraphs (a) and (b) of this subsection do not apply;

(d) A sibling if paragraphs (a) through (c) of this subsection do not apply; and

(e) A grandparent if paragraphs (a) through (d) of this subsection do not apply.

(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by Sections 1 through 8 of this Act. Communication between the victim and the special advocate shall be privileged.

(3) Law enforcement personnel shall ensure that victims receive information on available emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:

(a) Availability of crime victim compensation where applicable;

(b) Community based treatment programs;

(c) The criminal justice process as it involves the participation of the victim or witness; and

(d) The arrest of the accused.

(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in Sections 6 through 8 of this Act.

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:

(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances; and

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including the defendant's release on bond; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of attorney general will notify the victim if an appeal of the conviction is pursued by the defendant.

(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, a negotiated plea, and entry into a pretrial diversion program.

(7) In prosecution for offenses defined in KRS Chapter 514 or 515, law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.

(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.

(9) The attorney general, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.

(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the attorney general, the attorney general shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) Where the victim of a sexual offense including violations of KRS 510.040 to 510.150, 530.020, 530.065, 530.070, 531.310, 531.320, and 531.370, is less than sixteen (16) years old:

(a) The name of the child victim and identifying biographical information shall not appear on the indictment, arrest warrant, or any other public record;

(b) A Jane Doe or John Doe designation shall appear in place of the victim's name; and

(c) Closed nonpublic records containing the victim's name and other necessary identifying information shall be kept in order to insure that no defendant is indicted twice.

(2) Upon request of the child victim of a sexual offense or the child victim's parent or guardian, a judge shall order that the name of the victim and the details of the offense obtained by government agencies be under protective order. The name and details shall be disclosed only if the defendant demonstrates a need for disclosure in order to prepare his defense. Dissemination of the identity of the child, or other identifying information by the defendant or his agents, other than for the purpose of preparing his defense, may be punished through the contempt powers of the court.

(3) The preliminary hearing for a person charged with a sexual offense against a victim less than sixteen (16) years old may be conducted in the juvenile division of district court and shall be subject to the statutes, rules and procedures governing proceedings in that court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, 530.065, 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.

(2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trail shall be scheduled within ninety (90) days from the hearing date.

(3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

SECTION 4. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) The attorney for the Commonwealth shall notify the victim that, upon conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report or to the court should such a report be waived by the defendant.

(2) The impact statement may contain, but need not be limited to, a description of the nature and extent of any physical, psychological or financial harm suffered by the victim, the victim's need for restitution and whether the victim has applied for or received compensation for financial loss, and the victim's recommendation for an appropriate sentence.

(3) The victim impact statement shall be considered by the court prior to any decision on the sentencing or release, including shock probation, of the defendant.

SECTION 5. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) If a defendant is sentenced to a period of incarceration and his release is subject to the authority of the parole board, the victim may submit a written impact statement to the parole board that it shall consider when making a decision on the release of the defendant.

(2) The impact statement may contain, but need not be limited to, a description of the long-term consequences of the crime, including but not necessarily limited to, the physical, psychological and financial harm suffered by the victim, and whether the victim has applied for or received compensation for financial loss.

(3) The attorney for the Commonwealth shall notify the victim of his right to demand from the parole board notice of any hearing that it may conduct on the defendant's eligibility for parole or any form of early release.

(4) If the victim provides the parole board with a current address in a timely fashion, the parole board shall notify the victim of the hearing at least twenty (20) days prior to it.

Section 6. KRS 524.040 is amended to read as follows:

(1) A person is guilty of intimidating a witness when, by use of *physical force or* a threat directed to a witness or a person he believes may be called as a witness in any official proceeding, he:

(a) Influences, or attempts to influence, the testimony of that person; [~~or~~]

(b) Induces, or attempts to induce, that person to avoid legal process summoning him to testify; [~~or~~]

(c) Induces, or attempts to induce, that person to absent himself from an official proceeding to which he has been legally summoned*;* [~~.~~]

(d) Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;

(e) Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or

(f) Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings.

(2) For purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

(3)[~~(2)~~] "Threat" as used in this section means any threat proscribed in KRS 514.080.

(4)[~~(3)~~] Intimidating a witness is a Class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 524 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of harassing a witness when he engages or attempts to engage in misleading or unlawful conduct intended to hinder, delay, prevent or dissuade any witness or person he believes may be called as a witness from:

(a) Attending or testifying in an official proceeding;

(b) Reporting to a law enforcement officer or judge the commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(c) Seeking the arrest of another person in connection with an offense; or

(d) Causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding.

(2) For purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony need not be admissible in evidence or free of a claim of privilege.

(3) Harassment of a witness is a Class A misdemeanor.

SECTION 8. A NEW SECTION OF KRS CHAPTER 524 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of retaliating against a witness when he engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a witness or a person he believes may be called as a witness in any official proceeding for the witness's:

(a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding; or

(b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings.

(2) Retaliating against a witness is a Class D felony.

SECTION 9. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

The failure to provide a right, notice or privilege to a victim or witness under this Act shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

SECTION 10. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act creates a cause of action for money damages against the state, a county, a municipality or any of their agencies, public officials or employes.

Committee Amendment No. 1 to HB 390 is as follows:

Amend printed copy of HB 390:

on page 1, line 6, to delete "*murder*" and to insert in lieu thereof "*criminal homicide*".

and on page 1, line 7, following "*burglary*" to insert "*in the first or second degree*".

and on page 2, line 14, to delete the comma "," following the word "*emergency*".

and on page 4, line 3, to delete "*defined in KRS*" and to insert in lieu thereof "*listed in Section 1 of this Act for the purpose of defining "victim"*".

Committee Amendment No. 2 to HB 390 is as follows:

Amend printed copy of HB 390:

on page 11, below line 19, to add the following:

Section 11. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general shall prepare a pamphlet of not more than two (2) pages explaining to victims and witnesses of crime:

(a) How the criminal justice system functions from the point of the complaint through the trail;

(b) The role of the attorney for the Commonwealth;

(c) The role of the defense attorney and whether the victim or witness must talk to the defense attorney and under what conditions;

(d) The process for applying for crime victim compensation money;

(e) The duties of the attorney for the Commonwealth under Section 1 of this Act;

on page 11, below 19, continued:

(f) General information on how the victim or witness can protect himself from intimidation; and

(g) Such other information as the attorney general deems relevant.

(2) The attorney general shall provide the pamphlet to each Commonwealth's and county attorney in sufficient quantity to distribute to victims of crime and to witnesses for the Commonwealth.

(3) Each Commonwealth's and county attorney shall distribute the pamphlet to crime victims and witnesses and may distribute the pamphlet to other interested persons. No charge shall be made for the pamphlet.

(4) The cost of the printing of the pamphlet shall be borne by the Crime Victim Compensation Fund."

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: HB 460.

Agriculture and Small business: HB 163, HB 401, HB 64.

Energy: HB 234.

Motions, Petitions and Communications

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Barrows, HB 322; Representative Bendl, HR 41; Representative Blevins, HR 41, HB 219, HB 241; Representative Burnette, HB 19, HB 30; Representative Caldwell, HB 5; Representative Cline, HB 120; Representative Donnermeyer, HB 431, HB 432; Representative Gray, HB 24; Representative Handy, HB 19; Representative K. Harper, HB 438, HB 440, HB 443; Representative Jensen, HB 19; Representative Keith, HB 30; Representative Kerr, HB 12, HB 76; Representative Lile, HB 169; Representative Lyne, HR 41; Representative McElroy, HB 24; Representative McNutt, HR 41; Representative Priddy, HR 41; Representative Rapier, HB 24; Representative Riner, HB 323; Representative Seum, HB 75, HB 317; Representative Stewart, HR 41; Representative Stumbo, HB 311; Representative White, HR 41, HB 241, HB 321.

The following member filed a request to have his name withdrawn as a co-sponsor: Representative Lefevers, HB 9, HB 24.

Representative Turner moved the adoption of Legislative Citation No. 16. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the Gentleman from Rockcastle 80.

WHEREAS, the Gentleman from Rockcastle 80 saved the life of a citizen of our fair Commonwealth shortly after the House of Representatives adjourned on January 23, 1986; and

WHEREAS, the Gentleman from Rockcastle 80 had the presence and agility of mind to perform the Heimlich maneuver on a choking victim; and

WHEREAS, the Gentleman from Rockcastle 80 exemplifies the best and most honorable qualities of a public servant:

NOW, THEREFORE, be it resolved that this prestigious body does herewith offer its most sincere appreciation to the Gentleman from Rockcastle 80. (Sponsored by Representative Turner)

Representative Head moved the adoption of Legislative Citation No. 15. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the outstanding Crittenden County High School Football Team, and its coaches, Pat Gates, Jimmy Croft, Kent Barnes, Jack Easley and Greg Hollamon, for winning the Class "A" State Football Championship game on November 29, 1985, in Louisville, Kentucky. Your 13-1 record is a demonstration of your dedication, hard work, school spirit and personal sacrifice. You and your abilities merit highest acclaim for winning this coveted state recognition.

This prestigious body salutes and applauds you for the honor you have bestowed on your school, your community, and the Commonwealth of Kentucky. (Sponsored by Representative Head)

Representative Cowan moved to suspend the rules to act on a Resolution. Agreed.

Representative Cowan moved the adoption of the following HR 45:

HR 45, A RESOLUTION honoring the University of Louisville varsity cheerleading squad.

WHEREAS, the University of Louisville varsity cheerleading squad recently defended their national title in the National Cheerleaders Association Collegiate Championship competition; and

WHEREAS, more than 300 teams submitted videotapes to the cheerleading association with the U of L squad being among the twenty finalists to be invited to the final round of the 1986 competition in Orlando, Florida; and

WHEREAS, the University of Louisville varsity cheerleading squad retained their national championship crown after capturing first place in the competition; and

WHEREAS, the 1986 champions travelled home with a beautiful trophy and a cash prize of $5,000;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend the University of Louisville varsity cheerleading squad upon the occasion of retaining its national title in the 1986 National Cheerleaders Association Collegiate Championship competition.

Section 2. That this honorable body hails sponsor Sherrill Travis and squad members Bob Bohn, Dottie Derringer, Vonda Goldwair, Scott Greenwald, Jennifer Haddaway, Scott Hornung, Andre Lyons, Missy Perkins, Karen Smith, James Speed, Jeff Stevens, Darrell Willoughby, Lawrence Young, Denise Zirnheld and Beth Mattingly (cardinal bird costume) to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to University of Louisville President Donald Swain, cheerleading sponsor Sherrill Travis and to every member of the U of L varsity cheerleading squad.

HR 45 was adopted by voice vote.

Representative Burch moved that HB 403 be reassigned to the committee on Appropriations and Revenue. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to HB 274, by Representative B. Richardson:

Amend printed copy of HB 274:

On page 40, after line 4, add the following:

"Section 18. KRS 341.504 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including penalties, and shall continue the payment of all contributions and penalties due under this chapter, except that*:*

(a) The successor or acquirer shall not be required to assume the liability of any delinquent contributions and penalties of a predecessor or predecessors unless the department notifies the successor or acquirer of such delinquency within six (6) months after the department has notice of the succession or acquisition*; and* [~~.~~]

(b) No employing unit shall be required to assume the resources and liabilities of a predecessor reserve account, including liability of any delinquent contributions or any penalty or interest for a period in excess of ten (10) years from the date on which succession or acquisition occurred.

(2) The liability for delinquent contributions and penalties imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors and if the delinquency has been reduced to judgment the order of execution on such judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a portion of the organization, trade or business from a subject employer, and who is, or by reason of such succession or acquisition becomes, a subject employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such succession or acquisition as agreed upon by the parties in interest and approved by the secretary, and the taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, which was not a subject employer prior to such succession or acquisition of a predecessor's reserve account, either in whole or in part, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Floor Amendment No. 1 to HB 237, by Representative Barrows:

Amend printed copy of HB 237:

On page 1, line 1, by inserting after the word "confirms" the phrase ", except as modified by the provisions of this Act,"; and

On page 1, line 6, by deleting "the" and inserting in lieu thereof the word "a"; and

On page 1, line 6, by deleting "and" and inserting in lieu thereof the words "the Governor."; and

On page 1, line 7, by deleting the words "reporting to the Executive Director of the Authority."; and

On page 1, line 17, by deleting "and reporting" and inserting in lieu thereof the words "the Governor."; and

On page 1, line 18, by deleting the words "to the Executive Director of the Authority.".

Floor Amendment No. 1 to HCR 23, by Representative Gray:

Amend printed copy of HCR 23:

On page 1, line 6, after the numeral "2." insert the following:

"That Toyota afford to its American employes full protection as provided in the intent of the National Labor Relations Act.

And by renumbering the remaining section accordingly.

Senate Message

Announcing passage of SCR 28.

Announcements

The following meetings were announced:

Rules: State Reception on Adjournment today.

Education: Budget Review on adjournment today.

Transportation: Budget Review, January 27, 1986, 2:00 p.m.

Jefferson County Delegation, January 27, 1986, Room 103. Cancelled.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 27, 1986.

On the roll call the vote was yeas 78—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Jensen, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Yates. Nays 2—Holbrook, Williams.

The motion to adjourn was adopted.

MONDAY, JANUARY 27, 1986

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Dawahare and Rapier.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 24, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 478, by Representatives Freibert, Johnson, Lile, Napier, Ford and Siler: AN ACT relating to criminal nonsupport.

HB 479, by Representative Siler: AN ACT establishing a veterans' affairs subcommittee of the legislative research commission.

HB 480, by Representative Lear: AN ACT relating to juries.

HB 481, by Representative Lear: AN ACT relating to public employes.

HB 482, by Representative Barrows: AN ACT relating to water withdrawal, diversion, and allocation.

HCR 46, by Representatives P. Richardson and Crupper: A CONCURRENT RESOLUTION directing a study of the feasibility of establishing a foundation program fund for building inspectors, plans and specifications inspectors and plumbing inspectors.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: SB 130.

Education: HB 471.

Health and Welfare: HB 465, HB 469, HB 472, HB 474, HB 477, SB 98.

Judiciary-Civil: HB 466, HB 467, SB 69, SB 92.

Judiciary-Criminal: HB 470.

Natural Resources and Environment: HB 476, SB 21.

State Government: HB 468, HB 473, HB 475, SB 55, SB 56, SB 57, SB 58, SB 59, SB 61, SB 105, SB 106, SB 140, SB 142.

Transportation: SB 17.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: HB 366, SB 3, SB 107.

Energy: HB 438, HB 440, HB 443.

Counties and Special Districts: HCR 39.

Banking and Insurance: HB 135.

Senate Message

Announcing Passage of SB 100, SJR 7 and HB 62.

Report of Committees

The Committee on Committees announces Representative Frances Brown has been appointed to the following Committees:

Judiciary-Criminal.

Judiciary-Civil.

Labor and Industry.

The Committee on Rules reported HB 8, HB 41, HB 56, HB 60, HB 158, HB 235, HB 255, HB 268, HB 270, HB 285, HCR 7, HB 154, HB 181 and HB 210 have been posted for passage in Orders of the Day, January 28, 1986.

The Committee on Rules reported HB 94 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Judiciary-Criminal reported HB 71, with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 71, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.344 is amended to read as follows:

(1) The period of time spent on parole shall not count as a part of the prisoner's maximum sentence except in determining parolee's eligibility for a final discharge from parole as set out in KRS 439.354.

(2) When a prisoner on parole is placed in custody, the time spent in custody by that prisoner prior to his return to his place of imprisonment shall be credited toward service of the prisoner's maximum sentence.

(3) Subsection (2) of this section shall not apply to time spent in custody when the defendant is charged with or convicted of a new offense.

Section 2. KRS 514.030 is amended to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 3. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) *of this section*, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 4. KRS 514.050 is amended to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 5. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in

the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility,

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 6. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) *of this section* apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or

2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 7. KRS 514.080 is amended to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) *of this section* that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 8. KRS 514.090 is amended to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten days (10) after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 9. KRS 514,110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 10. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine or other property when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a social security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 11. KRS 516.120 is amended to read as follows:

(1) A person is guilty of unlawfully using slugs in the first degree when:

(a) He makes, possesses or disposes of slugs with intent to enable a person to insert, deposit or use them in a coin machine; and

(b) The value of such slugs exceeds *three hundred dollars ($300)* [~~$100~~].

(2) Unlawfully using slugs in the first degree is a Class D felony.

Section 12. The following KRS section is repealed:

440.455 Interstate agreement on detainers to apply to detainers based on affidavits and warrants charging violation of probation and parole.

Committee Substitute to HB 71 is as follows:

HB 71, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.344 is amended to read as follows:

(1) The period of time spent on parole shall not count as a part of the prisoner's maximum sentence except in determining parolee's eligibility for a final discharge from parole as set out in KRS 439.354.

(2) When a prisoner on parole is placed in custody, the time spent in custody by that prisoner prior to his return to his place of imprisonment shall be credited toward service of the prisoner's maximum sentence.

(3) Subsection (2) of this section shall not apply to time spent in custody when the defendant is charged with or convicted of a new offense.

Section 2. KRS 514.030 is amended to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 3. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) *of this section*, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is *three hundred dollars ($300)* [~~is $100~~] or more, in which case it is a Class D felony.

Section 4. KRS 514.050 is amended to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 5. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in

the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility, shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 6. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) *of this section* apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or

2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property *from one (1) or more persons totals three hundred dollars ($300)* [~~is $100~~] or more *in any six (6) month period*, in which case it is a Class D felony.

Section 7. KRS 514.080 is amended to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) *of this section* that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 8. KRS 514.090 is amended to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten days (10) after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 9. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is *three hundred dollars ($300)* [~~$100~~] or more, in which case it is a Class D felony.

Section 10. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine or other property when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a social security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 11. KRS 516.120 is amended to read as follows:

(1) A person is guilty of unlawfully using slugs in the first degree when:

(a) He makes, possesses or disposes of slugs with intent to enable a person to insert, deposit or use them in a coin machine; and

(b) The value of such slugs exceeds *three hundred dollars ($300)* [~~$100~~].

(2) Unlawfully using slugs in the first degree is a Class D felony.

SECTION 12. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

Any person whose property has been damaged in violation of KRS Chapter 512 or who has been the victim of a theft offense under KRS Chapter 514 may, in lieu of a civil action or criminal prosecution, utilize the civil demand process set forth in this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

Within five (5) working days of the commission of the offense if the defendant is known or within five (5) days of the discovery of the name of the defendant, if not initially known, the victim of the offense may send a letter to the defendant, and to the defendant's parents or guardian if the defendant is a minor, demanding reimbursement for the offense.

SECTION 14. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

Demand for reimbursement may be made for:

(1) The actual retail price of the property damaged or destroyed or its replacement cost whichever is greater at the time of damage or destruction plus fifty dollars ($50);

(2) The actual retail price of property stolen which is not returned undamaged plus fifty dollars ($50);

(3) Fifty dollars ($50) if the property stolen is returned undamaged prior to the sending of the demand letter, or the face value of any check or credit or debit card transaction plus twenty percent (20%) of the face value or ten dollars ($10), whichever is greater;

(4) Personnel costs involved in the recovery of the property, the investigation of the offense, and the preparation of the case and testimony at trials;

(5) Fees charged by financial institutions in connection with checks, credit and debit cards, or similar documents; and

(6) The costs of mailing the demand letter required herein.

SECTION 15. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) The demand letter for a theft (other than by a bad check) offense or criminal damage to property offense shall be in the following format:

"TO:

RE: Payment for (theft offense) (criminal damage to property)

Dear ______________:

On (date), you (stole items from) (took merchandise from) (damaged the property of) ______________. This is in violation of (KRS Chapter 512 criminal damage to property) (KRS Chapter 514 theft and related offenses). Unless you pay to ______________. the amount of $__________ within thirty (30) days of the date of receipt of this letter, ______________ is authorized by law to bring criminal charges or a civil action, or both, against you in connection with this offense. The amount demanded in this letter to avoid the filing of these actions is provided for by this Act and it consists of fifty dollars ($50) or the retail value of the property stolen or damaged plus fifty dollars ($50) together with other costs authorized by law.

If you do not pay the amount demanded in this letter within thirty (30) days of receipt of this letter and ______________ prevails in civil action against you, then ______________ will be entitled to damages of not less than twice the amount demanded in this letter together with costs and legal fees in the action.

If you pay the amount demanded above within thirty (30) days of the date of receipt of this letter then ______________ cannot file criminal charges or a civil action against you in connection with this case nor can the state bring a criminal prosecution in connection with this case.

To avoid the filing of criminal charges or a civil action, or both, against you in connection with this offense, your payment must be received by ______________ within thirty (30) days of the date of the receipt of this letter. YOUR PAYMENT SHOULD BE SENT TO:

(Name) ______________________________

(Address) ____________________________

____

(signature of person sending letter)"

(2) The demand letter for a theft by a bad check issued by an adult shall be in the following form:

"TO:

RE: Payment for bad check No. _______

Dear ______________:

Enclosed is a copy of check No. _______ which you presented to ______________ on (date) in the amount of $_______. As you will note from the markings on the check, it has been returned by your bank because of (insufficient funds, account closed, or whatever). This was a violation of KRS 514.040. Unless you pay to __________ the amount of $_______ within thirty (30) days of the receipt of this letter, __________ is authorized by law to bring criminal charges or a civil action, or both, against you in connection with this offense. The amount demanded in this letter to avoid the filing of these actions is provided for by this Act and it consists of the face value of the check plus twenty percent (20%) of the face value of the check or ten dollars ($10) whichever is greater, together with other costs authorized by law.

If you do not pay the amount demanded in this letter within thirty (30) days of the date of receipt of this letter and ______________ prevails in civil action against you, then ______________ will be entitled to damages of not less than twice the amount demanded in this letter together with costs and legal fees in the action.

If you pay the amount demanded above within thirty (30) days of the date of receipt of this letter then ______________ cannot file criminal charges or a civil action against you in connection with this case nor can the state bring a criminal prosecution in connection with this case.

To avoid the filing of criminal charges or a civil action, or both, against you in connection with this offense, *your payment must be received by ________ within thirty (30) days of the date of the receipt of this letter. YOUR PAYMENT SHOULD BE SENT TO:*

(Name) ____________________

(Address) __________________

____

(signature of person sending letter)"

(3) The demand letter for theft (other than by a bad check) offense or criminal damage to property offense by a minor shall be sent both to the minor and to his parent or guardian and shall be in the following format:

"TO:

RE: Payment for theft offense by juvenile

Dear __________:

On (date), (name of juvenile), your (son, daughter, ward), who we understand to be under the age of eighteen (18) years and in your custody and control (stole items from) (damaged the property of) __________. This is in violation of KRS Chapter 208 and of (KRS Chapter 512 criminal damage to property) (KRS Chapter 514 theft and related offenses). Unless you pay to __________ the amount of $______ within thirty (30) days of the receipt of this letter, __________ is authorized by law to bring a civil action against the parent or guardian of the child or may bring a criminal or delinquency action, or both, against the child in connection with this offense. The amount demanded in this letter to avoid the filing of these actions is provided for by this Act and it consists of fifty dollars ($50) or the retail value of the property stolen or damaged plus fifty dollars ($50) together with other costs authorized by law. UNDER SECTION 8 OF THIS ACT A PARENT OR GUARDIAN IS LIABLE FOR THE CRIMINAL ACTIONS OF HIS MINOR CHILD OR WARD.

If you, as legal guardian, do not pay the amount demanded in this letter within thirty (30) days of the receipt of this letter and ________ prevails in civil action against you, then ________ will be entitled to damages of not less than twice the amount demanded in this letter together with costs and legal fees in the action.

If you pay the amount demanded above within thirty (30) days of the date of receipt of this letter then __________ cannot file criminal charges or a civil action against you or your child in connection with this case nor can __________ or the state institute delinquency proceedings or a criminal prosecution in connection with this case.

To avoid the filing of criminal charges, a delinquency action, or a civil action, or any combination thereof against the parent or guardian or child in connection with this offense, your payment must be received by __________ within thirty (30) days of the receipt of this letter. YOUR PAYMENT SHOULD BE SENT TO:

(Name) ____________________

(Address) __________________

____

(signature of person sending letter)"

(4) The demand letter for a theft by a bad check issued by a minor shall be sent both to the minor and to his parent or guardian and shall be in the following format:

"TO:

RE: Payment for bad check issued by a juvenile

Dear . . ..:

On (date), (name of juvenile), your (son, daughter, ward), who we understand to be under the age of eighteen (18) years and in your custody and control, wrote check No. ________ to ___________ in the amount of $________. As you will note from the markings on the check, it has been returned to your bank because of (insufficient funds, account closed, or whatever). This was a violation of KRS 514.040. Unless you pay to ___________ the amount of $________ within thirty (30) days of the receipt of this letter, ___________ is authorized by law to bring a civil action against the parent or guardian of the child or may bring a criminal or delinquency action, or both, against the child in connection with this offense. The amount demanded in this letter to avoid the filing of these actions is provided for by this Act and it consists of the face value of the check plus twenty percent (20%) of the face value of the check or ten dollars ($10) whichever is greater, together with other costs authorized by law. UNDER SECTION 8 OF THIS ACT A PARENT OR GUARDIAN IS LIABLE FOR THE CRIMINAL ACTIONS OF HIS MINOR CHILD OR WARD.

If you, as guardian, do not pay the amount demanded in this letter within thirty (30) days of the receipt of this letter and ___________ prevails in civil action against you, then ___________ will be entitled to damages of not less than twice the amount demanded in this letter together with costs and legal fees in the action.

If you pay the amount demanded above within thirty (30) days of the receipt of this letter then ___________ cannot file criminal charges or a civil action against you or your child in connection with this case nor can ___________ or the state institute delinquency proceedings or a criminal prosecution in connection with this case.

To avoid the filing of criminal charges, a delinquency action, or a civil action or any combination thereof against the parent or guardian or child in connection with this offense, your payment must be received by ___________ within thirty (30) days of the receipt of this letter. YOUR PAYMENT SHOULD BE SENT TO:

(Name) ______________________________

(Address) ______________________________

____

(signature of person sending letter)"

SECTION 16. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) The demand letter shall be sent to the last known address of the defendant, in the case of an adult, by certified mail return receipt requested or by personal delivery.

(2) The demand letter shall be sent to the last known address of the defendant and the defendant's parents or guardian, if a juvenile is the defendant, by certified mail return receipt requested or by personal delivery.

(3) The date the letter is received by the defendant, as evidenced by the date on the return receipt or of evidence of personal delivery, shall be the date on which the payment period begins to run.

(4) In the event that the defendant, or the defendant's parent or guardian, refuses delivery of the letter, it shall be presumed that the defendant or the defendant's parent or guardian has chosen not to comply with the demands contained therein.

SECTION 17. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

In the event the defendant, or the defendant's parent or guardian in the case of a juvenile defendant, makes payment in full of the amount demanded in the letter on or before the thirty (30) day period has ended, the person who sent the letter and the Commonwealth are precluded from filing criminal charges, civil actions, or delinquency actions with respect to that particular offense. This proscription shall apply only to the person who has sent the letter and shall not apply to any other person who has been harmed by the act in question, unless such other person has been paid damages in full as permitted in this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

(1) In the event that a defendant, or the defendant's parent or guardian, refuses the demand letter, the person sending the letter may pursue any legal remedy which he possesses, as may the Commonwealth. In the event that the person sending the letter prevails in a civil action with regard to a theft or criminal damage to property offense for which the demand letter was refused, the person sending the letter shall be entitled to damages of not less than twice the amount claimed in the letter, together with his costs, including personnel costs, and legal fees in the action.

(2) In the event that a defendant, or the defendant's parent or guardian, receives the demand letter but refuses or fails to pay the amount claimed therein within the thirty (30) day period, the person sending the letter may pursue any legal remedy which he possesses, as may the Commonwealth. In the event that the person sending the letter prevails in a civil action with regard to a theft or criminal damage to property offense for which the payment in the demand letter was refused or not paid at all, the person sending the letter shall be entitled to damages of not less than twice the amount claimed in the letter, together with his costs, including personnel costs, and legal fees in the action.

(3) In the event that a defendant, or the defendant's parent or guardian, receives the damand letter but does not pay the full amount claimed therein within the thirty (30) day period, the person sending the letter may pursue any legal remedy which he possesses, as may the Commonwealth. In the event that the person sending the letter prevails in a civil action with regard to a theft or criminal damage to property offense for which partial payment was made, the person sending the letter shall be entitled to damages of not less than twice the amount remaining unpaid, together with his costs, including personnel costs, and legal fees in the action.

SECTION 19. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, a parent or guardian is liable in civil damages for the criminal conduct of his minor child or minor ward with regard to offenses which, if committed by an adult, would be a crime under KRS Chapters 512 or 514.

Section 20. The following KRS section is repealed:

440.455 Interstate agreement on detainers to apply to detainers based on affidavits and warrants charging violation of probation and parole.

Committee Amendment No. 1 to the Committee Substitute to HB 71 is as follows:

Amend printed copy of Committee Substitute for HB 71:

on page 2, line 1, to place brackets "[]" around the word "is" and to strike it through and to insert "*from one or more persons totals*" after the word "property".

and on page 2, line 2, to insert "*in any six (6) month period*" following the word "more".

and on page 3, line 23, to insert "*or*" before the word "service" and to insert "*from one or more persons*" following the word "service".

and on page 3, line 25, to place "*totals*" following the word "section" and to place brackets "[]" around the word "is" and to strike it through.

and on page 3, line 26, following "more" to insert "*in any six (6) month period*".

and on page 4, line 14, following "property" to insert "*from one or more persons totals*" and to place brackets "[]" around the word "is" and to strike it through.

on page 4, line 14, following the word "more" to add "*in any six (6) month period*" and on page 5, line 21, following "service" to add "*from one or more persons totals*" and to place brackets "[]" around "is" and to strike it through.

and on page 5, line 22, following "more" to add "*in any six (6) month period*"

and on page 6, line 23, following "property" to add "*from one or more persons totals*" and to place brackets "[]" around "is" and to strike it through.

and on page 6, line 24, following "more" to add "*in any six (6) month period*".

and on page 8, line 5, following "obtained" to add "*from one or more persons totals*" and to place brackets "[]" around "is" and to strike it through.

and on page 8, line 6, following "more" to add "*in any six (6) month period*".

and on page 8, line 26, following "rendered" to add "*by one or more persons totals*" and to place brackets "[]" around "is" and strike it through.

and on page 9, line 1, following "more" to add "*in any one six (6) month period*".

and on page 9, line 13, following "property" to add "*from one or more persons totals*" and to place brackets"[]" around "is" and strike it through.

and on page 9, line 14, following "more" to add "*in any six (6) month period*"

and on page 11, line 12, following "property" to add "*from one or more persons totals*" and to place brackets "[]" around "is" and strike it through.

and on page 11, line 13, following "more" to add "*in any six (6) month period*"

and on page 11, line 22, following "[~~$100~~]" to add "*in any six (6) month period*".

Committee Title Amendment No. 1 to Committee Substitute to HB 71 is as follows:

Amend printed copy of Committee Substitute for HB 71 the title, to delete the title appearing thereon and to insert in lieu thereof "AN ACT relating to criminal acts."

Calendar

HB 77, HB 243 and HB 390 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 241, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to HB 241. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 2 to HB 241. Agreed.

Representative Noe moved that HB 241, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 27, 1986 roll call on HB 241—Appendix A.)

HB 241 was passed and the title agreed to.

Representative Noe moved that the vote by which HB 241, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 322 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that HB 322 be passed.

On the roll call the vote was: Yeas 90, Nays 0.

HB 322 was passed and the title agreed to.

Representative Noe moved that the vote by which HB 322 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 306 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that HB 306 be passed.

On the roll call the vote was Yeas 91, Nays 0. (See January 27, 1986, roll call on HB 306—Appendix A).

HB 306 was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 306 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 81 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved that HB 81 be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 27, 1986, roll call on HB 81—Appendix A.)

HB 81 was passed and the title agreed to.

Representative Stone moved that the vote by which HB 81 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment No. 1 to HB 282. Agreed.

Representative Stone moved that HB 282, as amended, be passed. Agreed.

On the roll call the vote was: Yeas 93, Nays 3. (See January 27, 1986, roll call on HB 282—Appendix A.)

HB 282, as amended, was passed and the title agreed to.

Representative Stone moved that the vote by which HB 282, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Floor Amendment No. 1 to HB 274. Agreed.

Representative B. Richardson moved the adoption of Floor Amendment No. 2 to HB 274.

Representative B. Richardson moved Floor Amendment No. 2 be laid on Clerk's desk.

Report on Enrolled Bills

The Committee on Enrollment reported HB 62 had been examined and found correctly enrolled. HB 62 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:40 p.m.)

HB 62 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Cont'd)

HB 139 with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to HB 139. Agreed.

Representative Lear moved that HB 139, as amended, be passed.

On the roll call the vote was: Yeas 89. Nays 2. (See January 27, 1986, roll call on HB 139—Appendix A.)

HB 139, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which HB 139, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Orders of the Day (Cont'd)

HB 140, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to HB 140. Agreed.

Representative Lear moved that HB 140, as amended, be passed. Agreed.

On the roll call the vote was: Yeas 90, Nays 2. (See January 27, 1986, roll call on HB 140—Appendix A.)

HB 140, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which HB 140, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of HB 179.

Orders of the Day (Cont'd)

HB 264, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to HB 264. Agreed.

Representative Long moved that HB 264, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 27, 1986, roll call on HB 264—Appendix A.)

HB 264, as amended was passed and the title agreed to.

Representative Long moved that the vote by which HB 264, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 265 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that HB 265 be passed.

On the roll call the vote was: Yeas 73, Nays 20. (See January 27, 1986, roll call on HB 265—Appendix A.)

HB 265 was passed and the title agreed to.

Representative Long moved that the vote by which HB 265 was passed be reconsidered and said motion be placed on the table. Agreed.

Orders of the Day (Cont'd)

HB 279, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to HB 279. Agreed.

Representative LeMaster moved that HB 279, as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 14. (See January 27, 1986, roll call on HB 279—Appendix A.)

HB 279, as amended was passed and the title agreed to.

Representative LeMaster moved that the vote by which HB 279, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 483, by Representatives Meyer, K. Harper, Kerr, Caldwell and Mann: AN ACT relating to district courts.

HB 484, by Representative Heleringer: AN ACT relating to traffic regulations.

HB 485, by Representative Hines: AN ACT relating to consumer protection.

HB 486, by Representatives Priddy and Gray: AN ACT relating to polygraph examinations.

HB 487, by Representatives Priddy, L. Clark, Yates, Handy, O'Brien, Burch, Bronger, Nett, Bennett, Cowan, Seum, Hines, Bendl, Riner and P. Clark: AN ACT relating to cooperation between cities of the first class and counties containing such cities.

HB 488, by Representatives Gray, Clapp and Rattliff: AN ACT relating to rentals or sales of motion pictures to minors.

HB 489, by Representative Thomas: AN ACT relating to transient merchants.

HB 490, by Representatives Gregory, Pearman, Gedling and Reinhardt: AN ACT relating to installation of septic tank systems.

HJR 47, by Representative Freibert: A JOINT RESOLUTION establishing a task force to study abuses of Kentucky's motor vehicle registration laws which may permit the evasion of taxes usually levied on motor vehicles.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Cities: HB 427.

State Government: HB 156, HB 229, HB 348, HB 372, HB 381, HB 213, HB 313, HB 1, HB 67.

Business Organizations and Professions: HB 328, HB 445.

Education: HB 455, HCR 40, HB 462.

Labor and Industry: HB 424, HB 429, HB 430, HB 435.

Judiciary-Criminal: HB 17, HB 433, HB 301, HB 449.

Appropriations and Revenue: HB 187, HB 250, HB 407, HB 408, HB 409, HB 410, HB 464.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Appropriations and Revenue: HB 165.

Representative Moberly moved that he be recorded as voting "Yea" on HB 241. Agreed.

Representative Freibert moved that he be recorded as voting "Yea" on HB 306. Agreed.

Representative Deskins moved that he be recorded as voting "Yea" on HB 241. Agreed.

Representative Farrow moved that he be recorded as voting "Nay" on HB 5. Agreed.

Representative Farrow moved that he be recorded as voting "Yea" on HB 11, HB 30, HB 52, HB 80, HB 132, HB 169, HB 292. Agreed.

Representative Meyer moved to suspend the rules to act on a resolution. Agreed.

Representative Meyer moved the adoption of the following HR 44:

HR 44, A RESOLUTION adjourning the House of Representatives in memory and honor of Jack Werff.

With deepest respect we pay homage and tribute to the memory of our beloved friend, Jack Werff.

WHEREAS, known to his family and friends as "a giant of a man," Jack Werff traversed these earthly bounds on Sunday, July 21, 1985; and

WHEREAS, Jack Werff dedicated his short 57 years to improving the working conditions of the men and women of Kentucky; and

WHEREAS, Jack Werff diligently served as the President of Brewery Workers Local No. 12; and

WHEREAS, Jack Werff unselfishly devoted over 35 years to the AFL-CIO, working on the Federation's organizing staff for 18 years; and

WHEREAS, Jack Werff was one of the first coordinators of the AFL-CIO's grassroots Legislative Action Committee; and

WHEREAS, Jack Werff's tenacious courage and conviction for the advancement of the labor movement served as a source of strength and encouragement for others; and

WHEREAS, revered by his peers, Jack Werff "served his fellow workers and the entire labor movement with dedication and distinction" according to Federation President Lane Kirkland and Secretary-Treasurer Thomas R. Donahue; and

WHEREAS, the distinguished gentleman from the 98th state representative district recalled that Jack Werff "unflinchingly gave of himself for the rights and needs of working people" and "proclaimed that working people were the might, the muscle and the backbone of this country and deserved a fair shake"; and

WHEREAS, most importantly Jack Werff was a loving husband to his wife, Betty, and a devoted father of two and grandfather to two grandchildren; and

WHEREAS, Jack Werff's endearing smile, keen wit, generosity and affable manner will be sorely missed by those who had the good fortune of being associated with him;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its utter sense of bereavement and loss upon the death of Jack Werff and commits his loving family to the solace of the Almighty.

Section 2. That when the House does adjourn this day, Monday, January 27 1986, it does so in memory and honor of Jack Werff.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the family of Jack Werff.

HR 44 was adopted by voice vote.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 255, by Representative Blevins:

Amend printed copy of HB 255:

On page 2, line 7,

by deleting the word "*seller*"

and by inserting in lieu thereof the word "*installer.*"

Floor Amendment No. 2 to HB 237, by Representative Barrows:

Amend printed copy of HB 237:

On page 1, line 1, by inserting after the word "confirms" the phrase ", except as modified by the provisions of this Act,"; and

On page 1, line 6, by deleting "the" and inserting in lieu thereof the word "a"; and

On page 1, lines 6 and 7, by deleting the phrase "and reporting to"; and

On page 1, line 7, by inserting after the word "Authority" the phrase "with the prior written approval of the Governor pursuant to KRS 12.050"; and

On page 1, lines 17 and 18, by deleting the phrase "and reporting to"; and

On page 1, line 18, by inserting after the word "Authority" the phrase "with the prior written approval of the Governor pursuant to KRS 12.050".

Announcements

The following announcements were made:

Education: Budget Review, January 28, 1986, 8:00 a.m., reconvene at 7:00 p.m.

Labor: January 28, 1986, 9:00 a.m. Room 104.

Rules: On adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, January 28, 1986.

On the roll call the vote was Yeas 86-- Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 3—Deskins, Overstreet, Williams.

The motion to adjourn was adopted.

TUESDAY, JANUARY 28, 1986

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Robert Wood, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Rapier.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 27, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 28, SB 110, SB 111, SB 119, SB 158 and HB 7.

Introduction of Bills and Resolutions

HB 491, by Representative T. Jones: AN ACT relating to community advisory councils.

HB 492, by Representative T. Jones: AN ACT relating to a cause of action in nuisance.

HB 493, by Representative T. Jones: AN ACT relating to school employes.

HB 494, by Representative Freibert: AN ACT relating to day care centers.

HB 495, by Representative Stumbo: AN ACT relating to medicaid services.

HB 496, by Representative LeMaster: AN ACT relating to local court facilities.

HB 497, by Representative Clapp: AN ACT relating to attorney fees.

HB 498, by Representatives Meyer, Donnermeyer, McBee, P. Clark, Priddy, Seum, Noland, Bronger, Reinhardt, M. Brown, Bennett, Blevins, Overstreet, Mann and Kerr: AN ACT relating to individual income tax.

HR 48, by Representative Lear: A RESOLUTION congratulating Shirley McVay Wiseman of Lexington, Kentucky.

HR 49, by Representative Head: A RESOLUTION naming Dale Faughn a poet laureate of Kentucky.

HR 50, by Representative Kerr: A RESOLUTION to adjourn in loving memory of James William "Bill" Waters.

HCR 51, by Representatives Freibert, Lear, Scorsone, Caldwell, Dawahare, Blevins, Siler, P. Richardson, Farrow, Napier, Todd, Turner and Noland: A CONCURRENT RESOLUTION honoring the Lexington Children's Theatre and designating it the official state children's theatre.

HR 52, by Representative Stumbo: A RESOLUTION in loving memory of those brave space pioneers who perished in the tragedy of the Space Shuttle Challenger.

HB 499, by Representatives Gray, P. Clark, McBee and Priddy: AN ACT relating to collective bargaining for fire fighters and law enforcement officers.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: SR 7.

Business Organizations and Professions: HB 489.

Cities: HB 487.

Counties and Special Districts: HB 490.

Judiciary-Civil: HB 480, HB 483.

Judiciary-Criminal: HB 478, HB 488.

Labor and Industry: HB 485, HB 486, HCR 46.

Natural Resources and Environment: HB 482, SB 100.

State Government: HB 479, HB 481.

Transportation: HB 484, HJR 47.

Report of Committees

The Committee on Rules reported HB 77, HB 243 and HB 390 have been posted for passage in Orders of the Day, January 29, 1986.

The Committee on Banking and Insurance reported HB 162 with Committee Amendments attached thereto, HB 182 with Committee Amendment attached thereto, HB 278, HB 332 with Committee Amendment attached thereto, and HB 460 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 162, AN ACT relating to health care malpractice.

WHEREAS, it is in the public interest that the general public be assured of access to needed health care, while at the same time being assured of adequate redress for negligent injury; and

WHEREAS, access to health care is affected by the affordability and availability of that care; and

WHEREAS, most health care providers need liability insurance coverage to provide the general public with health care and the cost of insurance, which is affected by the total recoveries awarded and the ability to project future liabilities, is passed on to the general public as is the cost of defensive medicine which the American Medical Association estimates costs $1.5 billion per year; and

WHEREAS, professional liability insurance premiums for Kentucky physicians have continued to rise and the total rate increase experienced by insureds of the largest medical malpractice insurer in Kentucky was seventy-five percent (75%) for 1985; and

WHEREAS, some Kentucky physicians estimate that malpractice insurance premiums add ten dollars ($10.00) to the cost of an office visit; and

WHEREAS, the high cost of medical malpractice insurance poses a threat to the continuing availability of health care in Kentucky as evidenced by: an increasing number of physicians are dropping their obstetrics practices rather than paying premiums in excess of twenty thousand dollars ($20,000) per year, nurse midwives are finding it increasingly difficult to afford the increased costs of insurance which may deprive a segment of Kentucky's population with a much needed affordable alternative, Kentucky's only child-bearing center closed in 1985 when its malpractice insurance was canceled, four physicians in a Kentucky city in 1985 gave up their hospital privileges when the hospital's malpractice carrier required physicians on the staff to carry one million dollars ($1,000,000) in coverage, some physicians are choosing early retirement rather than continuing to pay spiraling insurance premiums, and some physicians are questioning whether they can afford to continue to take on charity cases, particularly obstetricians who subject themselves to large liability when delivering a child of an indigent mother who may have received little or no care during her months of pregnancy; and

WHEREAS, our tort law/liability insurance system for medical malpractice is in need of reform if health care costs are to be controlled to assure the general public has access to needed health care; and

WHEREAS, although Kentucky and Indiana have stayed roughly the same in the number of medical malpractice lawsuits filed, premiums in Kentucky are twice those in Indiana largely because Indiana has enacted legislation placing a cap on recoveries and changing its statute of limitations; and

WHEREAS, a study of malpractice claims closed by insurers in the mid- to late 1970's concluded that limits on the dollar amount of awards, including caps and provisions for periodic payments, reduced average settlements by twenty-five percent (25%) and raised the proportion of cases dropped from forty-three percent (43%) to forty-eight percent (48%); and

WHEREAS, the continuing rise in insurance rates, their growing effects on the availability of health care, and the fact that only two (2) of the more than four hundred (400) medical malpractice insurers in the United States offer coverage in Kentucky, demands that immediate legislative action be taken;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

(1) Any health care provider, as defined in KRS 304.40-260, who fails to qualify under this Act shall not be covered by the provisions of the Act and shall be subject to liability under the law without regard to the provisions of this Act. If a health care provider shall not qualify, the patient's remedy shall not be affected by the terms and provisions of this Act.

(2) If a health care provider shall qualify under this Act, the patient's exclusive remedy against the health care provider or his or her partner, employer or employes for alleged malpractice, professional negligence, failure to provide care, breach of contract relating to providing medical care, or other claim based upon failure to obtain informed consent for an operation or treatment shall be as provided by this Act unless the patient shall have elected not to come under the provisions of this Act. Unless the patient or his representative shall have elected not to be bound by the terms of this Act, filed such election with the commissioner in advance of any treatment, act or omission upon which any claim or cause of action is based, and notified the health care provider of election as soon as is reasonable under the circumstances that such patient has so elected, it shall be conclusively presumed that the patient has elected to be bound by the terms and provisions of this Act. Such election may be made by either legal parent for an unborn or newborn child. Unless a legal parent of an unborn child or the guardian or other representative of a minor or incompetent makes the election in the manner provided in this Act for such unborn person, minor or incompetent, such person shall be deemed to be subject to the terms and provisions of this Act.

(3) An election not be bound by the provisions of this Act shall be on a form prescribed by the commissioner and the forms shall be available from any health care provider who has qualified under this Act.

(4) An election not to be bound by the provisions of this Act shall be effective for a period of two (2) years after filing, unless the election is withdrawn by the patient, and shall be ineffective after the two (2) year period unless renewed in writing and filed with the commissioner. The patient or his representative may revoke the election in writing at any time and a copy of the revocation shall be forwarded to the commissioner within five (5) days after the same is made.

(5) Each health care provider who has qualified under this Act shall post and keep posted in his or her waiting room or other suitable location a sign of a size and type to be prescribed by the commissioner stating: (name of the health care provider) has qualified under the provisions of this Act. Patients shall be subject to the terms and provisions of the Act unless they file an election not to be bound by the Act with the commissioner of the Kentucky department of insurance. Forms to file such an election shall be available from the health care providers.

SECTION 2. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

(1) To be qualified under this Act, a health care provider or such health care provider's employer, employe, or partner shall establish financial responsibility as follows:

(a) By the health care provider's insurance carrier filing with the commissioner, proof that the health care provider is insured by a policy of malpractice liability insurance in the amount of at least one hundred thousand dollars ($100,000) per occurrence, and three hundred thousand dollars ($300,000) in the annual aggregate, except that if the health care provider is a hospital, the annual aggregate limit shall be two million dollars ($2,000,000) for hospitals of one hundred (100) beds or less and three million dollars ($3,000,000) for hospitals of more than one hundred (100) beds;

(b) By filing and maintaining with the commissioner cash or surety bond, approved by the commissioner, in the amounts set forth in paragraph (a) of this subsection; or

(c) If the health care provider is a hospital, by submitting annually a verified financial statement which, in the discretion of the commissioner, adequately demonstrates that the current and future financial responsibility of the health care provider is sufficient to satisfy all potential malpractice claims incurred by it or its employer, employe, or partner up to a total of one hundred thousand dollars ($100,000) per occurrence and annual aggregates of two million dollars ($2,000,000) for hospitals of one hundred (100) beds or less and three million dollars ($3,000,000) for hospitals of more than one hundred (100) beds. The commissioner may require the deposit of security to assure continued financial responsibility.

(2) Security provided pursuant to paragraph (b) of subsection (1) of this section may be held in any manner mutually agreeable to the commissioner and the health care provider. The agreement shall provide that the principal may not be withdrawn prior to receiving the written permission of the commissioner; however, any interest earned may be withdrawn at any time by the health care provider.

(3) In order to establish financial responsibility under this section, each individual who is a member of a partnership or professional corporation shall establish financial responsibility separate from the partnership or professional corporation.

SECTION 3. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

The total amount recoverable for any injury or death of a patient may not exceed five hundred thousand dollars ($500,000).

Section 4. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice, *except as to health care providers qualified under this Act.*

(f) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(g) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(h) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(i) An action for the recovery of damages or the value of stolen property, by the owner thereof, against the thief or any accessory.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (g) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

SECTION 5. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

No claim, whether in contract or tort, may be brought against a health care provider based upon professional services or health care rendered or which should have been rendered unless filed within two (2) years from the date of the alleged act, omission or neglect, except that a minor under the full age of six (6) years shall have until his eighth birthday in which to file. This section applies to all persons regardless of minority or other legal disability.

SECTION 6. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

(1) In any action by a patient against a health care provider in a tort or contract claim for malpractice in which the trier of fact makes an award to compensate the claimant for future losses, payment of amounts intended to compensate the claimant for these losses shall be made by one (1) of the following means:

(a) The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

(b) Subject to the provisions of this section, the court shall, at the request of either party, unless the court determines that manifest injustice would result to any party, enter a judgment ordering the damages for future losses to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

(2) In entering a judgment ordering the payment of such future damages by periodic payments, the court shall make a specific finding of the dollar amount of periodic payments which will compensate the judgment creditor for these future damages. The total dollar amount of the periodic payments shall equal the dollar amount of all such future damages before any reduction to present value, less any attorney's fees payable from future damages in accordance with subsection (6) of this section. The period of time over which the periodic payments shall be made is the period of years determined by the trier of fact in arriving at its itemized verdict, and shall not be extended if the plaintiff lives beyond the determined period. If the claimant has been awarded damages to be discharged by periodic payments and the claimant dies prior to the termination of the period of years during which periodic payments are to be made, the remaining liability of the defendant shall be paid into the estate of the claimant in a lump sum. The court may order that the payments be equal or vary in amount, depending upon the need of the claimant.

(3) As a condition to authorizing periodic payments of future damages, the court shall require the defendant to post a bond or security or otherwise to assure full payment of these damages awarded by the judgment. A bond is not adequate unless it is written by a company authorized to do business in this state and is rated A+ by Best's. If the defendant is unable to adequately assure full payment of the damages, the court shall order that all damages be paid to the claimant in a lump sum pursuant to the verdict. No bond may be canceled nor be subject to cancellation unless at least sixty (60) days advanced written notice is filed with the court and the judgment creditor. Upon termination of periodic payments, the court shall order the return of the security, or so much as remains, to the judgment debtor.

(4) (a) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to timely make the required periodic payments, the court shall:

1. Order that all remaining amounts of the award be paid by lump sum within thirty (30) days after entry of the order;

2. Order that, in addition to the required periodic payments, the judgment debtor pay the claimant all damages caused by the failure to timely make periodic payments, including court costs and attorney's fees; or

3. Enter other orders or sanctions as appropriate to protect the judgment creditor;

(b) If it appears that the judgment debtor may be insolvent or that there is a substantial risk that the judgment debtor may not have the financial responsibility to pay all amounts due and owing the judgment creditor, the court may order additional security or that the balance of payments due be placed in trust for the benefit of the claimant, or that all remaining amounts of the award be paid by lump sum within thirty (30) days after entry of the order, or order such other protection as may be necessary to assure the payment of the remaining balance of the judgment.

(5) The judgment providing for payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amounts of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Periodic payments shall be subject to modification only as specified in this section.

(6) Claimant's attorney's fee, if payable from the judgment, shall be based upon the total judgment, adding all amounts awarded for past and future damages. The attorney's fee shall be paid from past and future damages in the same proportion. If a claimant has agreed to pay his attorney's fees on a contingency fee basis, the claimant shall be responsible for paying the agreed percentage calculated solely on the basis of that portion of the award not subject to periodic payments. The remaining unpaid portion of the attorney's fees shall be paid in a lump sum by the defendant, who shall receive credit against future payments for this amount. However, the credit against each future payment is limited to an amount equal to the contingency fee percentage of each periodic payment. Any provision of this subsection may be modified by the agreement of all interested parties.

(7) Nothing in this section shall preclude any other method of payment of awards, if such method is consented to by the parties.

(8) This section shall apply to judgments in all medical negligence lawsuits filed on or after the effective date of this Act.

The Committee Amendment No. 1 to HB 162 is as follows:

Amend printed copy of HB 162:

On page 14, after line 13, by adding:

"SECTION 7. KRS 304.40-260 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 304.40-250 to 304.40-320, the following words and terms shall be defined as follows:

(1) "Health care provider" means any physician, osteopath, dentist, podiatrist, *optometrist,* nurse or nurse's assistant, certified registered nurse anesthetist, physical or occupational therapist, or psychologist, licensed to practice health care in this state; any hospital, medical clinic, medical foundation, health maintenance organization, extended care facility, intermediate care facility, nursing home, emergency treatment center, outpatient medical or surgical center, frontier nursing service, or any other facility or service licensed under any act of this state to provide health care within this state; or any officer, director, employer agent thereof; and any corporation, partnership or sole proprietorship which directly provides medical services to its employes;

(2) "Commissioner" means the commissioner of insurance;

(3) "Patient" means a natural person who receives health care from a licensed health care provider under a contract, express or implied;

(4) "Claimant" means the patient or spouse, parent, guardian, trustee, or other authorized agent of the patient;

(5) ''Tort'' means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another;

(6) ''Malpractice'' means any tort or breach of contract based on health care or professional services rendered, or which should have been rendered, by a health care provider to the patient;

(7) ''Health care'' means any act, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider to a patient during that patient's care, treatment, or confinement for a physical or mental condition;

(8) ''Malpractice insurer'' means any insurance authority or any insurance company properly engaged in the practice of writing malpractice liability insurance under authority of the commissioner of insurance.''

The Committee Amendment No. 2 to HB 162 is as follows:

Amend printed copy of HB 162:

On page 10, line 4, by inserting ''*qualified*'' before ''*health.*''

The Committee Amendment No. 3 to HB 162 is as follows:

Amend printed copy of HB 162:

On page 10, line 7, by deleting '', *except that a*''

On page 10, by deleting lines 8, 9, and 10 in their entirety

On page 10, line 11, by deleting ''*disability.*''

The Committee Amendment No. 4 to HB 162 is as follows:

Amend printed copy of HB 162:

On page 14, after line 13, by adding:

''SECTION 7. A NEW SECTION OF KRS 304.40-250 TO 304.40-320 IS CREATED TO READ AS FOLLOWS:

Medical malpractice insurance premiums shall be based solely on Kentucky experience.''

HB 182, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer licensed to issue automobile insurance policies shall charge a higher rate to any insured if the only moving violation of the insured that has occurred within the last three (3) calendar years is the running of a stop sign, the running of a traffic light, or exceeding the posted speed limit by no more than ten (10) miles per hour.

(2) This section shall not apply if the operator of the motor vehicle is convicted of having been driving while under the influence of alcohol or drugs when the moving violation occurred, or if property damage or bodily injury resulted from the moving violation.

The Committee Amendment No. 1 to HB 182 is as follows:

Amend printed copy of HB 182:

On page 1, line 5, by deleting ''*if the only*'' and inserting in lieu thereof ''*based solely on a*''

On page 1, line 5, after "*of*" by inserting "*which*"

On page 1, line 5, before "*that*" by inserting "*has been convicted and*"

On page 1, line 6, after "*years*" by inserting "*if the violation.*"

HB 278, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-060 is amended to read as follows:

(1) Any person who registers, operates, maintains or uses a motor vehicle on the public roadways of this Commonwealth shall, as a condition of such registration, operation, maintenance or use of such motor vehicle and use of the public roadways, be deemed to have accepted the provisions of this subtitle, and in particular those provisions which are contained in this section.

(2) (a) Tort liability with respect to accidents occurring in this Commonwealth and arising from the ownership, maintenance, or use of a motor vehicle is "abolished" for damages because of bodily injury, sickness or disease to the extent the basic reparation benefits provided in this subtitle are payable therefor, or that would be payable but for any deductible authorized by this subtitle, under any insurance policy or other method of security complying with the requirements of this subtitle, except to the extent noneconomic detriment qualifies under subsection (2)(b) hereof.

(b) In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required in this subtitle, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of the ownership, maintenance, operation or use of such motor vehicle only in the event that the benefits which are payable for such injury as "medical expense" or which would be payable but for any exclusion or deductible authorized by this subtitle exceed one thousand dollars ($1,000), or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a [~~weight-bearing~~] bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of bodily function or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one thousand dollars ($1,000).

(c) Tort liability is not so limited for injury to a person who is not an owner, operator, maintainer or user of a motor vehicle within subsection (1) of this section, nor for injury to the passenger of a motorcycle arising out of the maintenance or use of such motorcycle.

(3) For purposes of this section and the provisions on reparation obligor's rights of reimbursement, subrogation, and indemnity, a person does not intentionally cause harm merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

(4) Any person may refuse to consent to the limitations of his tort rights and liabilities as contained in this section. Such rejection must be in writing in a form to be prescribed by the department of insurance and must have been executed and filed with the department at a time prior to any motor vehicle accident for which such rejection is to apply. Such rejection form together with a reasonable explanation thereof shall be furnished by the reparation obligor with each policy to each prospective insurance applicant. Such rejection form shall affirmatively state in bold print that acceptance of this form of insurance denies the applicant the right to sue a negligent motorist unless certain requirements contained in the policy of insurance are met. Rejection by a person who is under legal disability shall be made on behalf of such person by his legal guardian, conservator or his natural parent. The failure of such guardian or a natural parent of a person under legal disability to file a rejection, within six (6) months from the date that this subtitle would otherwise become applicable to such person, shall be deemed to be an affirmative acceptance of all provisions of this subtitle. Provided, however, any person who, at the time of an accident, does not have basic reparation insurance but has not formally rejected such limitations of his tort rights and liabilities and has at such time in effect security equivalent to that required by KRS 304.39-110 shall be deemed to have fully rejected such limitations within meaning of this section for that accident only.

(5) (a) Any rejection must be filed with the department of insurance and shall become effective on the date of its filing until revoked.

(b) Any rejection filed prior to June 30, 1980, shall be deemed to be effective from the date of its filing until revoked.

(c) Any revocation shall be in writing and shall become effective upon the date of its filing with the department of insurance.

(6) Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his right to reject the limitations of his tort rights and liabilities under this subtitle in the manner provided in subsections (4) and (7) of this section.

(7) Any rejection shall result in the full retention by the individual of his tort rights and his tort liabilities. Any person injured by a motor vehicle operator who has such rejection on file may claim his full damages, including nonpecuniary damages, or, if such injured person has not rejected his own tort limitations, he may also claim basic reparation benefits from the appropriate security on the vehicle as established under KRS 304.39-050. If such provider of security is other than the one providing security for the operator who has rejected the limitations, such provider shall be subrogated to the rights of the injured person to the extent of reparation benefits paid against the owner and operator of the vehicle.

(8) No person who has rejected the tort limitations under this section, except as provided in subsection (9) of this section or KRS 304.39-140(5), may collect basic reparation benefits.

(9) Any owner or operator of a motorcycle, as defined in Kentucky Revised Statutes, may file a rejection as described in subsections (4) and (5), which will apply solely to the ownership and operation of a motorcycle but will not apply to injury resulting from the ownership, operation or use of any other type of motor vehicle.

HB 332, AN ACT relating to automobile guaranty insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.5-070 is amended to read as follows:

(1) "Casualty insurance" includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the name insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(c) Workmen's compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employes.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and the inspection of and issuance of certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(i) Credit. Insurance, other than mortgage guaranty insurance, against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and the inspection of and issuance of certificates of inspection upon, elevators.

(l) Congenital defects. Insurance against congenital defects in human beings.

(m) Livestock. Insurance against loss of or damage to livestock from any cause.

(n) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

(o) Failure of certain institutions to record documents. Insurance indemnifying against loss from failure or omission to record as public records, liens of any kind upon personal property, given, held, delivered, or possessed as security or collateral for loans, advances, debts, or obligations of all kinds.

(p) Automobile guaranty. Insurance of the mechanical condition or, freedom from defective or worn parts of motor vehicles, other than as provided by manufacturer's warranty. *Provided, however, the making of a contract covering only defects in material and workmanship in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing automobiles, shall not be deemed insurance, provided, that the maker of the contract has an insurance policy with an approved automobile insurer to assure the performance of the duties of the maker created by each on all of the contracts made by the maker. In the event that the maker of the contract is unable to perform the duties imposed thereby, the purchaser of the contract shall then be considered a policyholder of the insurer. The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty (60) days after proof of loss has been filed with the maker. The requirements that the maker of the contract have an insurance policy with an approved automobile insurer shall not apply where the maker is a manufacturer, distributor, or importer of automobiles. The commissioner is authorized to promulgate regulations to interpret this paragraph.*

(q) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subtitle, if such insurance is not disapproved by the commissioner as being contrary to law or public policy.

(2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraph (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

The Committee Amendment No. 1 to HB 332 is as follows:

Amend printed copy of HB 332:

On page 5, line 6, by deleting the word "*automobiles*" and by inserting in lieu thereof the words "*motor vehicles*"

And on line 8, by deleting the words "*approved automobile*" and by inserting in lieu thereof the words "*authorized motor vehicle*"

And on line 8, by inserting after the word "*insurer*" the words "*as defined in KRS 304.1-100*"

And on line 23, by deleting the words "*approved automobile*" and inserting in lieu thereof the words "*authorized motor vehicle*"

And on page 5, line 23, by inserting after the word "*insurer*" the words "*as defined in KRS 304.1-100*"

And on line 25, by deleting the word "*automobiles*" and inserting in lieu thereof the words "*motor vehicles.*"

HB 460, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.30-090 is amended to read as follows:

(1) A premium finance company shall not charge, contract for, receive, or collect a service charge other than as permitted by the subtitle.

(2) The service charge is to be computed on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final instalment of the premium finance agreement is payable.

(3) The service charge shall be a maximum of *twelve dollars ($12.00)* [~~eight dollars ($8.00)~~] per one hundred dollars ($100) per year plus an additional charge of *fifteen dollars ($15.00)* [~~ten dollars ($10.00)~~] per premium finance contract which need not be refunded upon cancellation or prepayment.

The Committee on Education reported HB 219, HB 287 with Committee Amendment attached thereto, and HB 298 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 219, AN ACT relating to public school sports medicine programs and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

It is the intention of the general assembly of the Commonwealth of Kentucky to create an experimental incentive sports medicine program to assist local school districts in providing such programs for students involved in interscholastic sports. The purpose of the program is to reduce the rate of injuries and re-injuries by providing selected school districts with funds to pay a stipend for teacher-trainers who will develop sports medicine programs that will improve the health care and safety of student athletes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Teacher-trainer" means a teacher who holds a valid Kentucky teaching certificate and who is an athletic trainer certified under KRS 311.900 to 311.928;

(2) "Experimental sports medicine program" means a program recommended by the advisory council for

sports medicine programs and approved by the superintendent of public instruction and the state board of education for providing assistance to local school districts in developing and operating sports medicine programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

An advisory council for sports medicine programs is created and attached to the state board of education to develop and recommend to the superintendent of public instruction and the state board of education an experimental program of sports medicine for local school districts.

(1) The council shall be composed of eleven (11) voting members appointed by the governor by August 1, 1986 and one (1) non-voting, ex officio member. It is recommended that:

(a) Two (2) members be superintendents of local school districts, one (1) of which shall have a sports medicine program in operation;

(b) One (1) member be a principal of a local school district high school which participates in major interscholastic sports and has a sports medicine program;

(c) One (1) member be a coach of a major interscholastic sport and an officer of the Kentucky high school athletic association's coach's association;

(d) One (1) member be a certified athletic trainer in a public high school;

(e) One (1) member be an officer of the state athletic directors' association;

(f) One (1) member who shall be a physician and chairman of the Kentucky medical association's school health, physical education and medical aspects of sports committee;

(g) Two (2) members be physicians recommended by the chairman of the Kentucky medical association's school health, physical education and medical aspects of sports committee;

(h) One (1) member of the board of control of the Kentucky high school athletic association;

(i) One (1) member be a university faculty member involved in preparation programs for athletic trainers; and

(j) The superintendent of public instruction, or his designee serve as an ex officio, non-voting member.

(2) All voting members shall serve terms of four (4) years except that the original appointments shall be made as follows:

(a) Four (4) members for four (4) year terms;

(b) Four (4) members for three (3) year terms; and

(c) Three (3) members for two (2) year terms.

(3) Members may be reappointed to the council for successive terms. Vacancies shall be filled by the governor as they occur in a manner consistent with the provisions for initial appointment.

(4) The advisory council shall elect a chairman annually from its membership.

(5) The members shall be remunerated from funds appropriated or donated to the state board of education for the program for actual and necessary expenses incurred while attending meetings of the state advisory council for sports medicine programs or while serving in the capacity as a representative of the council.

(6) The council shall meet at least three (3) times each year at such times and places as it determines by resolution.

(7) The powers and duties of the council shall be to:

(a) Advise the superintendent of public instruction in matters pertaining to the overall health and well-being of student athletes;

(b) Define the goals and objectives of a sports medicine program for the Commonwealth's local school districts;

(c) Determine the role of the teacher-trainer in the schools;

(d) Determine eligibility criteria for local school districts to receive funding through the experimental program, receive program applications, and select districts meeting those criteria;

(e) Recommend to the superintendent of public instruction and the state board of education a formula for the distribution of funds to participating school districts;

(f) Recommend to the superintendent of public instruction and the state board of education school districts to receive assistance under the program;

(g) Develop an evaluation procedure to monitor the activities of the sports medicine program; and

(h) Determine state-wide needs for a sports medicine program and make recommendations to the state board of education and the superintendent of public instruction relative to alleviating those needs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The state board of education with the recommendations of the advisory council for sports medicine programs shall implement an experimental incentive program to assist local school districts in developing sports medicine programs in schools sponsoring interscholastic sports.

(2) Funds appropriated to the state board of education by the general assembly or funds donated under KRS 156.035(2) to the state board of education from private sources for the program shall be awarded according to the funding formula approved by the state board of education.

(3) Funding criteria shall include:

(a) Provisions for selection of at least one (1) school district from each of the sixteen (16) regions established by the Kentucky high school athletic association for the state basketball tournament if applicants meet participation criteria. If no school district in a region meets the participation criteria, then the state board of education may select more than one (1) district from another region;

(b) No school shall be eligible for a grant for more than three (3) years and no district shall receive a grant for more than one (1) school while there are eligible local districts applying for funds who have not received a grant; and

(c) Funds granted to school districts under this program shall only be expended for teacher-trainer stipends.

Section 5. For the purpose of funding this program there is appropriated to the state board of education out of the general expenditure fund in the state treasury, $85,000 for fiscal year 1986-87 and $170,000 for fiscal year 1987-88.

HB 287, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.152 is amended to read as follows:

(1) For the purpose of this section, "school personnel" shall mean any person employed as a full time employe in the public schools.

(2) Each district board of education may allow each person employed as a full-time employe in the public schools not to exceed three (3) emergency days per school year for reasons designated by the district board of education, without loss of salary to the employe and without affecting his sick leave.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.155, *except that a school employe, after using the maximum days allowed in subsection (2) of this section, may, upon approval of the school district superintendent, use up to three (3) sick leave days per school year for emergency leave.*

(4) Payments made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and the payments do not affect the eligibility of any school district to participate in the foundation program as established in KRS Chapter 157.

Section 2. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) "Employe" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part time basis.

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section *and may allow school district employes to use up to three (3) days sick leave per school year for emergency leave pursuant to KRS 161.152(3).* Any accumulated sick leave days, not to exceed thirty (30) days, credited to a teacher shall remain so credited in the event he transfers his place of employment from one school district to another within the state or to the Kentucky department of education.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employe or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employe's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of such days includes unused sick leave days held by the employe or teacher at the time of implementation of such a program.

The Committee Amendment No. 1 to HB 287 is as follows:

Amend printed copy of HB 287:

On page 1 line 13

after "*that*" delete "*a school employe*" and insert "*school personnel*" in lieu thereof

On page 3 line 9, after "*employes*" insert "*and teachers*"

HB 298, AN ACT relating to teachers in schools for the blind and deaf.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.032 is amended to read as follows:

(1) The Kentucky department of education, with assistance from the Kentucky department of personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools[~~, the Kentucky school for the deaf, and the Kentucky school for the blind~~] to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in that vocational region for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as the regular pay.

(2) *The Kentucky department of education, with assistance from the Kentucky department of personnel, shall adopt a salary schedule for teachers in the Kentucky school for the deaf and the Kentucky school for the blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320* [~~Schedules for the 1980-81 school year shall be developed by August 1, 1980, and shall be initiated at the beginning of the 1980-81 school year~~].

(3) Schedules for the 1986-87 school year shall be developed and implemented by August 1, 1986.

(4) Certified teachers in the Kentucky school for the deaf and the Kentucky school for the blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

The Committee on Labor and Industry reported HB 198, HB 220, HB 356 and HB 363 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 198, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The introduction of evidence or testimony which uses race as a basis for recovery in any workers' compensation action is prohibited.

HB 220, AN ACT relating to boiler safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.130 is amended to read as follows:

(1) The owner or user of a boiler or pressure vessel required by this chapter to be inspected shall pay to the department, upon completion of inspection, *reasonable* fees *established by the commissioner upon advice of the board pursuant to KRS Chapter 13A* [~~in accordance with the following schedule:~~

~~(a) Power boilers:~~

~~Internal inspections~~

~~Boilers of less than 100 sq. ft. of heating surface~~	~~$10.00~~
~~Boilers over 100 sq. ft. of heating surface and less than 1,000 sq. ft. of heating surface~~	~~20.00~~
~~Boilers over 1,000 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface~~	~~35.00~~
~~Boilers over 4,000 sq. ft. and less than 10,000 sq. ft. of heating surface~~	~~50.00~~
~~Boilers over 10,000 sq. ft. of heating surface~~	~~80.00~~

~~External inspections, power boilers:~~

~~Boilers of less than 100 sq. ft. of heating surface~~ .... ~~8.00~~

~~Boilers over 100 sq. ft. of heating surface~~ .... ~~10.00~~

~~Not more than the equivalent of the internal and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one (1) year.~~

~~(b) Heating boilers:~~

~~Boilers with manway where internal inspection required~~ .... ~~$20.00~~

~~Other heating boilers~~ .... ~~10.00~~

~~Heating boilers—External inspection:~~

~~Hot water supply boilers~~ .... ~~5.00~~

~~Miniature boilers~~ .... ~~5.00~~

~~(c) Pressure vessels:~~

~~Initial installation inspection~~ .... ~~10.00~~

~~Not more than one (1) fee shall be charged or collected for any kind all inspections as above of any low pressure boiler in any two-year period.~~

~~(d) Hydrostatic tests:~~

~~When it is necessary to make a special trip to witness the application of a hydrostatic or pneumatic test, an additional fee based on the scale of fees applicable to an internal inspection of the boiler shall be charged~~].

(2)[~~(e)~~] All other inspections, including shop inspections and inspection of secondhand or used boilers made by the boiler inspector shall be charged for at the rate set by regulation promulgated by the commissioner upon advice of the board pursuant to KRS Chapter 13A.

(3)[~~(2)~~] All fees received by the department shall be held in a trust and agency fund from which the expenses of administering this chapter and other departmental responsibilities may be paid and no portion of said fund shall lapse into the general fund at the end of each fiscal year.

Section 2. KRS 236.210 is amended to read as follows:

(1) No person, except contractor-installers of boilers operating at more than five hundred (500) pounds per square inch gauge or at more than four hundred sixty-seven (467) degrees Fahrenheit, shall engage in the business of installing, erecting, or repairing boilers unless he first obtains a license from the commissioner on recommendation of the board.

(2) Each person, firm or corporation must pass an examination prepared by the board and administered by the department.

(3) *A* license shall be issued by the commissioner or the chief boiler inspector upon recommendation of the board and payment of a *reasonable* fee *established by the commissioner upon advice of the board pursuant to KRS Chapter 13A* [~~of fifty dollars ($50) for each application~~].

(4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a *reasonable* fee *established by the commissioner upon advice of the board pursuant to KRS Chapter 13A* [~~of thirty-five dollars ($35)~~].

(5) All individuals in the employ of a licensee shall not be required to be licensed.

HB 356, AN ACT relating to arbitration of labor disputes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context clearly requires otherwise:

(1) "Arbitrator" means a neutral individual to whom the parties involved in a labor dispute submit their differences for a final and binding decision in accordance with the provisions of this Act; and

(2) "Roster" means the list of labor arbitrators prepared and maintained by the secretary consisting of persons who meet the criteria set forth in administrative regulations promulgated by the secretary in accordance with the provisions of KRS Chapter 13A.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall:

(a) Maintain a roster of qualified arbitrators from which arbitrators provided pursuant to this section shall be selected;

(b) Refer or provide without charge, upon request of the party or parties to an agreement to arbitrate, a qualified arbitrator or a panel of qualified arbitrators;

(c) Assure that the needs of the parties requesting his services are served. To accomplish this purpose he may establish through administrative regulations procedures for the preparation of panels or the appointment of arbitrators, including consideration of such factors as background, experience, qualifications, availability, geographical location and the expressed preference of the parties; and

(d) Prescribe through administrative regulations a fee schedule and reporting requirements to which arbitrators listed on the roster shall subscribe.

(2) The secretary shall not have the power or authority to:

(a) Compel parties to arbitrate or agree to arbitration;

(b) Enforce an agreement to arbitrate;

(c) Compel parties to agree to a particular arbitrator;

(d) Influence, alter or set aside decisions of arbitrators provided pursuant to this Act; and

(e) Compel, deny or modify payment of compensation to an arbitrator.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Persons listed on the roster;

(a) Shall comply with the rules and regulations promulgated by the secretary pertaining to arbitration and ethical standards and procedures; and

(b) Who are selected or appointed to hear arbitration matters do not become employes of the labor cabinet by virtue of their listing, selection or appointment.

(2) Following selection or appointment, the arbitrator's relationship is solely with the parties, except that arbitrators are subject to the fee schedule and reporting requirements set forth in subsection (1)(d) of Section 2 of this Act. Provided that, the secretary may appoint in accordance with the provisions of KRS Chapter 18A such persons as he deems necessary to provide the services described in this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The secretary shall in accordance with KRS Chapter 13A promulgate such rules and regulations as he deems necessary to effectuate the purposes of this Act.

HB 363, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employe to gainful employment. To this end there is hereby created a rehabilitation panel which shall be composed of the director and specialists in medical and vocational rehabilitation to be appointed by the board.

(2) The panel shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The board in consultation with the panel, shall approve as qualified such facilities, institutions and physicians as are capable of rendering competent rehabilitation service to seriously injured employes. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.

(3) An employe who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services, *which shall be paid for by the employer,* for whatever period of time necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the board shall inquire whether such services have been voluntarily offered and accepted. The board on its own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employe to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, and after affording the parties an opportunity to be heard by the panel, the board, in consultation with the panel, may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service the board may deem necessary, be provided at the expense of the defendants as apportioned in the award. Vocational rehabilitation training, treatment or service shall not extend for a period of more than fifty-two (52) weeks except in unusual cases when by special order of the board, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employe's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the defendants.

(5) Refusal to accept rehabilitation pursuant to an order of the board shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The board and the rehabilitation panel shall cooperate on a reciprocal basis with the Kentucky office of rehabilitation of the department of education and the employment services of the Kentucky cabinet for human resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employe by the office of vocational rehabilitation or department for employment services following the defendant's refusal to provide such services, the board, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the defendants as apportioned in the award.

The Committee on Transportation reported HB 16 with Committee Amendment attached thereto, HB 293, HB 315 with Committee Amendment attached thereto, HB 333 and HB 434 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The transportation cabinet shall issue, free of charge, a certificate of registration and two (2) license plates or renewal decals to each disabled veteran who has been or shall be issued a motor vehicle by the veterans administration under the provisions of Title 38, Section 1901, of the United States Code or any other public law that may be passed by the Congress of the United States, and who is a resident of Kentucky.

(2) The license plates in subsection (1) of this section shall be manufactured to last at least five (5) years and shall be printed in three (3) colors, red, white and blue. One-half (1/2) of the license plate shall be in one color, the other half (1/2) a second color and the figures and lettering the third color. Each tag shall contain the name of the state, the years, the registration number and the words "Handicapped Vet."

(3) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the license plate and return it and the certificate of title and registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a one dollar ($1) clerk's fee. When the special plate has been presented to the clerk, he shall reissue same free from payment to the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) License plates provided under this section shall be issued only as long as the veteran is the owner of a motor vehicle provided by the veterans administration. Such license plates are not transferable to any person or persons not entitled to them under this section.

(5) No county, city, town or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the department under the provisions of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(6) Application for the special license plates shall be made to the cabinet in accordance with such regulations as the cabinet may have issued.

(7) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(8) Registration issued under this section shall expire on *July* [~~December~~] 31.

(9) In the event a disabled veteran plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(10) The cabinet may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

The Committee Amendment No. 1 to HB 16 is as follows:

Amend printed copy of HB 16:

on page 3, line 20, after the period "." insert the following language:

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) From and after July 31, 1987, the department of vehicle regulation shall provide and issue fee of charge to each disabled veteran who resides in the Commonwealth, registration and a license plate for any vehicle described in KRS 186.050(1), (3) or (12), except if such vehicle is used for hire or any other commercial purpose. There shall be no more than two (2) motor vehicles to any one (1) owner under this section.

(2) For the purpose of this section, "disabled veteran" means a veteran having served in the military, naval, marine or air services of the United States, who is a resident of the Commonwealth and who is entitled to compensation under the laws administered by the veterans' administration for any of the following due to disability incurred in or aggravated by active military, naval, marine, or air services of the United States:

(a) Loss or permanent loss of one (1) or both feet;

(b) Loss or permanent loss of one or both hands;

(c) Permanent impairment of vision of both eyes where there is central or visual acuity of 20/200 or less in the better eye, with corrective lenses; or central or visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such extent that the widest diameter of visual field subtends an angular distance no greater than twenty (20) degrees in the better eye; or

(d) Any disabled veteran who has other service connected disability which is determined by the veterans' administration to constitute a one hundred percent (100%) permanent total disability.

(3) Any disabled veteran who qualifies under the provisions of this section shall be entitled upon compliance with registration in KRS 186.041(6) and without being required to pay a fee to have issued to him registration plates of the special design described in KRS 186.041(2).

(4) Registration issued under this section shall expire on July 31. In the event a disabled veteran plate, within five (5) years of the date of issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement free of charge.

(5) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the license plate and return it and the certificate of title and registration upon payment of an eleven dollar and fifty cent ($11.50) state fee and a one dollar ($1.00)clerk's fee. When the special plate has been presented to the clerk, he shall reissue the same free from payment to the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee, for use on the other vehicle owned by the same person who purchased the special plate for the current licensing period. The license plate on this vehicle shall be turned in to the county clerk, who shall forward the licensed plate to Frankfort.

(6) No county, city, town or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the cabinet under the provisions of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(7) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on the highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

HB 293, AN ACT relating to turnpikes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.610 is amended to read as follows:

Except as hereinafter provided in this section, when all bonds issued under the provisions of this chapter in connection with any turnpike project or projects and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project or projects[~~, if then in good condition and repair,~~] shall be conveyed by the authority to the Commonwealth and shall become part of the state highway system and shall thereafter be maintained by the bureau free of tolls; Provided, however, That the bureau may, in any proceedings or trust indenture authorizing or securing bonds under the provisions of this chapter, provide for combining for financing purposes any two (2) or more turnpike projects theretofore constructed or thereafter to be constructed, and for the reimposition or continuance of tolls on each such turnpike project until all such bonds and the interest thereon shall have been paid or a sufficient amount for such purposes shall have been set aside in trust for the benefit of the bondholders.

Section 2. KRS 177.550 is amended to read as follows:

Except as hereinafter provided in this section, when all bonds issued under KRS 177.390 to 177.570 in connection with any turnpike project or projects and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project or projects[~~; if then in good condition and repair,~~] shall become part of the state highway system and shall thereafter be maintained by the bureau free of tolls; provided, however, the bureau may, in any proceedings or trust agreement authorizing or securing bonds under the provisions of KRS 177.390 to 177.570, provide for combining for financing purposes any two (2) or more turnpike projects theretofore constructed or thereafter to be constructed, and for the reimposition or continuance of tolls on each such turnpike project until all such bonds and the interest thereon shall have been paid or a sufficient amount for such purposes shall have been set aside in trust for the benefit of the bondholders.

HB 315, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.240 is amended to read as follows:

It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260 and in so doing shall:

(1) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260, provided that the forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county; the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered.

(2) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160.

(3) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes which shall be embossed with the registration number, the word "Kentucky" and the name of the county in which the plate is issued or in lieu thereof the words "Official," "Transportation," "Executive," "Farm," or in the case of plates for commercial vehicles, such words or information as the department of vehicle regulation may by regulation provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no numerals indicating any year shall be placed upon any license plate issued under and in accordance with the provisions of KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and of KRS 186.061, relating to the licensing of vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. [~~A state slogan may be placed upon such plate if so desired.~~]

(4) *All license plates issued after January 1, 1988, shall conform to the provisions of subsection (3) of this section except that the word "Kentucky" shall be centered above the county name in which the plate is issued, the words "Bluegrass State" shall be centered at the bottom of the plate below the registration number and the name of the county in which the plate is issued shall be centered in the upper portion of the plate above the registration number and below the word "Kentucky." After January 1, 1988, the transportation cabinet may provide for the issuance of reflectorized plates for any or all motor vehicles and may collect a fee for such plates, in addition to the fee set out in KRS 186.050, of fifty (50) cents.*

(5) The transportation cabinet shall receive all moneys forwarded by the clerk in each county and turn same over to the state treasurer for the benefit of the state road fund.

(6)[~~(5)~~] The transportation cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him.

(7)[~~(6)~~] When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

Section 2. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the cabinet through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle licensed under subsections (3) through (14) of KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. *No rim, frame or other covering around the plate shall in any way obscure or cover any portion of the plate or any lettering or decal on the plate.* If the cabinet has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The cabinet shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the cabinet make identity of the registrant readily ascertainable.

(2) The registration year for commercial vehicles, trailers, semitrailers, mobile homes, and recreational vehicles shall be from April 1 to March 31. The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31.

The Committee Amendment No. 1 to HB 315 is as follows:

Amend printed copy of HB 315:

On page 2, line 21, after the word "*issued*" add the following:

"*pursuant to KRS 186.050(1)*"

On page 3, line 6, after the word "*fee,*" delete [~~for such plates~~]

HB 333, AN ACT relating to motorcycle helmets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the transportation cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner[~~; and~~

~~(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times that the vehicle is in motion~~].

(3) *The following persons operating a motorcyle on a public roadway shall be required to wear approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times the vehicle is in motion:*

(a) Any person operating a motorcyle under the age of eighteen (18) years;

(b) Any person operating a motorcyle by the authority of an instruction permit; or

(c) Any person operating a motorcycle having a valid motorcycle operator's license for less than one (1) year. The division of driver licensing through the circuit court clerk shall make a notation on the driver's license of a motorcyle operator possessing a license less than twelve (12) months.

(4) The following passengers on a motorcycle or in a sidecar attachment being operated on a public roadway shall be required to wear approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times the vehicle is in motion:

(a) Any person under the age of eighteen (18) years; or

(b) If the motorcycle operator is less than eighteen (18) years of age.

(5) No motorcycle operator authorized to drive a motorcycle by virtue of an instruction permit shall be permitted to have passgengers.

(6) The secretary of the transportation cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(7)[~~(4)~~] As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(8)[~~(5)~~] "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

HB 434, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) No county clerk shall accept an initial application for a certificate of registration or title, or license plate, from an importer of a motor vehicle not manufactured for sale or distribution in the United States unless the importer of such a vehicle shall furnish to the county clerk of the county where the vehicle is sought to be titled or registered the following:

(a) A manufacturer's certificate of origin in the English language issued by the actual vehicle manufacturer;

(b) The original documents constituting valid proof of ownership in the country in which the vehicle was originally purchased, together with a complete translation of the documents into the English language verified as to accuracy of the translation by affidavit of a competent translator; or

(c) In the case of a vehicle imported from a country that cancels the vehicle registration and title for export, the documents assigned to the vehicle after the registration and title have been canceled, together with a complete translation of the documents into the English language, verified as to accuracy of the translation by affidavit of the translator.

(2) Upon the initial transfer of a vehicle not manufactured for sale or distribution in the United States by an importer of a vehicle, or upon registration of such a vehicle by the importer for their own use, no county clerk shall accept an application for certificate of registration or title or license plate until the following information is provided:

(a) A bond release letter, with all attachments, issued by the United States department of transportation acknowledging receipt of a statement of compliance submitted by the importer of the vehicle and that the statement meets the safety requirements of 19. C.F.R. 12.80 (e);

(b) A bond release letter, with all attachments, issued by the United States environmental protection agency stating that the vehicle has been tested and shown to be in conformity with federal emission requirements;

(c) A receipt or certificate issued by the United States department of treasury showing that any and all gas guzzler taxes due on the vehicle under the provision of public law 95-618, title II, section 201(a), (26 U.S.C. 4064), have been fully paid; and

(d) True and accurate copies of all documents, photographs, reports and all other records submitted to and used in obtaining United States customs bond release authorization from the United States environmental protection agency and the United States department of transportation, and on which the authorization to release the bond was based.

(3) Upon the initial transfer of a vehicle not manufactured for sale or distribution in the United States by an importer of a vehicle, or upon registration of such a vehicle by the importer for their own use, the applicant shall, before submitting his application to the county clerk, have the vehicle together with his application for title or registration and its supporting documents inspected by a certified inspector according to the provisions of the KRS 186A.115. When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, together with the application for title or registration, and its supporting documentation. He shall insure that the documents, photographs, reports and other records submitted to the United States department of transportation and the United States environmental protection agency, upon which the decision to issue bond release authorization to the United States customs service was based, correspond with the vehicle he is physically inspecting, by matching such records with the following:

(a) The vehicle identification number;

(b) The engine serial number;

(c) The make and model of the vehicles; and

(d) Photographs of the vehicle (if submitted).

(4) In lieu of the foregoing requirements, the applicant shall furnish to the county clerk proof satisfactory that the vehicle for which registration or title is sought was manufactured in the United States, or that such was lawfully imported into the United States by an authorized distributor from the manufacturer of the motor vehicle.

The Committee on Education reported HB 300, with Committee Substitute attached thereto, and HB 385 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 300, AN ACT relating to the school term.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days. A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils.

(4) The board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. [~~,~~]

(5) Two (2) days *may be used* for the opening and closing of schools without the presence of pupils.

(6) Schools may be closed for a national [~~, the number of days deemed necessary for:~~

~~(a) National~~] or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky.

(7) Schools may be closed for a local [~~, and~~

~~(b) Local~~] disaster which would endanger the health or safety of children or *a period of* mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction.

(8) One [~~, and shall use one~~] (1) day of excused absence *may be used* for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(9) Local boards of education may declare up to ten (10) days as "weather calamity days," and the superintendent of public instruction shall have the authority to approve up to ten (10) additional days for that purpose. For purposes of this subsection, "weather calamity days" shall mean days on which schools are open under a weather-related emergency plan. The highest one-month average daily attendance for the prior year shall be used as the official attendance on weather calamity days.

(10)[~~(4)~~] The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection *(7)*[~~(3)(b)~~] of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

The Committee Substitute to HB 300 is as follows:

HB 300, AN ACT relating to the school term.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days. A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional

school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils.

(4) The board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. [~~,~~]

(5) Two (2) days *may be used* for the opening and closing of schools without the presence of pupils.

(6) Schools may be closed for a national [~~, the number of days deemed necessary for:~~

~~(a) National~~] or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky.

(7) Schools may be closed for a local [~~, and~~

~~(b) Local~~] disaster which would endanger the health or safety of children or *a period of* mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction.

(8) Upon request to the school principal, a student shall be granted one[~~, and shall use one~~] (1) day of excused absence for *the purpose of attending* [~~attendance at~~] the Kentucky state fair [~~for students applying for excused absence for this purpose~~].

(9) Local boards of education may declare up to ten (10) days as "weather calamity days," and the state board of education, upon recommendation of the superintendent of public instruction shall have the authority to approve up to ten (10) additional days for that purpose. For purposes of this subsection, "weather calamity days" shall mean days on which schools are open under a weather-related emergency plan. Weather calamity days shall be excluded from the average daily attendance calculation for reimbursement in the affected school district.

(10)[~~(4)~~] The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection *(7)*[~~(3)(b)~~] of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

Section 2. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session, *except that weather calamity days pursuant to KRS 158.070 shall be excluded from the calculation*;

(2) "Board" means the board of education of any county or independent school district;

(3) "Classroom unit" means the unit for measuring educational needs for foundation program purposes;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of grades kindergarten through eight (8), or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Foundation program" means the level of educational services and facilities, as defined in KRS 157.310 to 157.440, which is to be provided in each district from the public school foundation program fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day or one-half (1/2) year, in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session ;

(8) "Public school foundation program fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Kentucky administrative regulations of the state board of education" means those regulations which the state board of education may adopt upon the recommendation and with the advice of the superintendent of public instruction. The superintendent of public instruction shall recommend for adoption by the state board of education such rules and regulations as he deems necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience and such other factors as the state board of education may approve and which does not discriminate between salaries paid elementary and secondary teachers;

(13) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days membership of pupils in a public school for the school year.

HB 385, AN ACT relating to textbooks for public elementary and secondary school pupils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The superintendent of public instruction shall arrange the elementary and secondary school subjects included in the state courses of study as prescribed by the state board of education into *five (5)* [~~six (6)~~] adoption groups, except subjects with rapidly changing or highly technical content may be excluded from the grouping process. The *five (5)* [~~six (6)~~] adoption groups shall be arranged as nearly equal in number and purchase cost as possible.

(2) Contracts for each of the *five (5)* [~~six (6)~~] adoption groups shall be for a period of *five (5)* [~~six (6)~~] years and shall be executed on a staggered basis, with one group being up for adoption each year, except when an adoption has been delayed, as set forth in subsection (3) of this section. The superintendent of public instruction may call for contracts for less than *five (5)* [~~six (6)~~] years or negotiate extensions of existing contracts for individual subjects to arrange proper subject groupings and adoption group size.

(3) The superintendent of public instruction may delay a scheduled adoption *for one (1) year* and negotiate appropriate extensions of existing contracts for textbooks with relevant content [~~or when necessary because of insufficient funding~~].

Section 2. KRS 156.435 is amended to read as follows:

(1) The state textbook commission shall, not later than September 20 of any year in which an adoption is to be made, select, approve, and publish a list of ten (10) books or programs in each subject and grade, taking into account the needs of the various types of school organizations. The commission shall not list more than one (1) book or program for the same subject and grade from the same person, firm, or corporation.

(2) The state textbook commission shall have the authority to reject any book which contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, Provided the publisher of such a book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list.

(3) The state textbook commission shall have the authority to add books to the state list when the number of books on the list is less than ten (10) per subject and grade or when the list does not contain books for subjects added to the state courses of study.

(4) The superintendent of public instruction shall make and execute contracts for the selected books with the publishers on or before January 1 following the approval of the books selected by the commission. Except as described heretofore in KRS 156.400, all contracts shall run for *five (5)* [~~six (6)~~] years.

(5) The state textbook commission, on or before May 1, shall designate books or programs on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15.

(6) The superintendent of public instruction shall prepare a multiple list of the selected books or programs and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

Section 3. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state multiple list of textbooks by the textbook commission.

(2) Unless otherwise provided by the general assembly in a budget bill, the board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select from the state multiple list books or programs for each subject and grade to be used as a basal text, in its school system for a period of *five (5)* [~~six (6)~~] years and any extensions thereof.

(3) County and/or independent school district or districts, however, may decline to make textbook adoptions. Such a school district or districts that decline or fail to make textbook adoptions on or before April 15 shall use the books or programs on the state multiple list designated by the state textbook commission for each subject and grade for the adoption period.

(4) After the local board of education has adopted the basal textbooks for use of the district and not later than April 20, the superintendent of schools shall send to the superintendent of public instruction a complete list of books adopted properly certified by the chairman and secretary of the board of education.

Section 4. KRS 157.100 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board of education, shall purchase textbooks from the publishers whose books have been adopted by the state textbook commission and may purchase from any publisher other related media not approved by the state textbook commission and distribute them without cost to pupils attending grades kindergarten through twelve (12), of the public schools of the state, in the manner and upon the conditions set out in KRS 156.447[~~, 157.110~~] and 157.180.

Section 5. KRS 156.450 is amended to read as follows:

[~~If sufficient state funds are not available for the superintendent of public instruction to purchase textbooks for all public school grades pursuant to KRS 157.100,~~] Each board of education may appoint one or more dealers to act as official retail agents for the sale of books for use in the school district, or any school unit may purchase and distribute books to its own patrons. Persons whose books have been adopted under these provisions shall furnish the books, either through the official retail agents or through respective boards of education, at the lowest wholesale price and the lowest exchange price listed with the superintendent of public instruction f.o.b. the publisher's nearest shipping point. Each official retail agent shall give a reasonable bond, if required, to the persons who have contracts to furnish adopted texts. All orders given by the retail agent or board of education shall be promptly filled. The official retail agent shall sell the books at not more than twenty per cent (20%) in excess of the listed wholesale price. Where old books, displaced by new adoption, are offered by pupils in exchange for the corresponding new books, the new books shall be offered at a price not more than twenty per cent (20%) in excess of the listed exchange price. If any agent violates the requirements of this section, or fails to give reasonable bond requested by any person who has a contract to furnish adopted texts, the board of education that appointed the agent may, by giving notice prior to May 1 in any year, revoke the appointment on July 1 of that year. When an agent's permit is revoked or terminated, all textbooks as per inventory of the agent must be paid for at wholesale price by the person from whom the textbooks were purchased, if the textbooks are of the lawful adoption.

Section 6. KRS 156.475 is amended to read as follows:

KRS 156.405, 156.447, 156.474, *and* 157.100 [~~and 157.110~~] may be cited as "The Rattliff-Ward Textbook Act of 1976."

Section 7. The following KRS section is repealed:

157.110 Determination of grades and subjects for which textbooks shall be provided.

The Committee on Judiciary-Civil reported HB 148, HB 277 with Committee Amendment attached thereto, and HB 383 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 148, AN ACT relating to handicapped persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.020 is amended to read as follows:

(1) The father and mother shall have the joint custody, nurture and education of their children who are under the age of eighteen (18). If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture and education of the children who are under the age of eighteen (18). The father shall be primarily liable for the nurture and education of his children who are under the age of eighteen (18).

(2) The father and mother shall have the joint custody, care and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability. *However, the court in its discretion, may not require support of such children beyond the age of eighteen (18) if the parents certify their indigency in the manner provided in KRS 31.120 and the dependent child is determined to have income and resources in excess of the parents.* If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care and support of such children. The father shall be primarily liable for the custody, care and support of wholly dependent children who have reached the age of eighteen (18).

HB 277, AN ACT relating to guardianship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.090 is amended to read as follows:

(1) When a guardian becomes insane, moves out of the state, becomes incapable of discharging the duties of his trust or is evidently unsuited therefor, the court on being satisfied that either of the causes aforenamed exists shall remove him, or, when it appears proper, the court may permit him to resign his trust if he first settles his accounts and delivers the estate as the court directs. In either case, or when from any cause there is a vacancy in the office of guardian, the court may appoint a guardian.

(2) The court may also remove a guardian for failing to make a settlement of his accounts as required by law, or as may be required by the court, or for failing to give additional surety when required.

(3) When the natural parents of a disabled person are appointed co-guardians of that person and one (1) of the co-guardians dies, the survivor shall become the successor guardian without any additional action by the court.

Section 2. KRS 387.570 is amended to read as follows:

(1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall have a jury trial and shall have the right to present evidence and to confront and cross-examine all witnesses.

(2) The hearing may be closed to the public on request of the respondent or his counsel.

(3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.

(4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.

(5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.

(6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

(7) If the respondent has been certified by the interdisciplinary evaluators to be either profoundly or severely retarded, the court may waive a jury trial upon a motion by respondent's attorney, if no party objects.

The Committee Amendment No. 1 to HB 277 is as follows:

Amend printed copy of HB 277:

On page 1, line 16, after "*natural*" insert "*or adoptive.*"

HB 383, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.590 is amended to read as follows:

(1) No person, corporation or association shall advertise in any manner that it will receive children for the purpose of adoption nor shall any newspaper published in the Commonwealth of Kentucky nor any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) No person, agency, institution, or intermediary may sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. Nothing in this section shall prohibit a licensed child-placing agency from charging a fee for adoption services. Nothing in this section shall be construed to prohibit in vitro fertilization. For purposes of this section "in vitro fertilization" means the process whereby an egg is removed from a woman, then fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) In any adoption for which approval of the secretary is required under KRS 199.470(4), the total amount of money paid, including attorney's fees, by adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification. *The court shall determine whether or not the attorney's fees are reasonable. If the court determines that the fees for services rendered by the attorney are unreasonable, the court shall reduce the amount of the attorney's fees accordingly.*

Calendar

HB 71 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Holbrook moved to suspend the rules to take HB 274 from the Clerk's desk and place it in Orders of the Day, as the first order of business today. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 179 had been examined and found correctly enrolled. HB 179 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate (Time 2:10 p.m.)

HB 179 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Cont'd)

HB 274, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that HB 274 be passed.

Representative Cyrus moved to withdraw said motion. Agreed.

Representative Stumbo moved that HB 274 be laid on the Clerk's Desk.

The motion that HB 274 be laid on the Clerk's Desk was adopted.

Orders of the Day (Cont'd)

HB 237, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 2 to HB 237. Agreed.

Representative Kerr moved that HB 237, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 28, 1986, roll call on HB 237—Appendix A.)

HB 237, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 237, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to HB 217. Agreed.

Representative Burch moved that HB 217, as amended, be passed.

On the roll call the vote was: Yeas 36, Nays 56. (See January 28, 1986, roll call on HB 217—Appendix A.)

HB 217, as amended, was defeated.

HB 8, with Committee Substitute and Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to HB 8. Agreed.

Representative Lear moved that HB 8, by way of Committee Substitute, be passed.

Representative Deskins moved that HB 8 be placed on the Clerk's Desk.

On the roll call the vote was: Yeas 23, Nays 62. (See January 28, 1986, roll call on HB 8—Appendix A.)

The motion to lay HB 8 on the Clerk's Desk, was rejected.

Representative Donnermeyer moved that HB 8, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 13. (See January 28, 1986, roll call on HB 8—Appendix A.)

HB 8, by way of Committee Substitute was passed.

Representative Donnermeyer moved the adoption of the Title Amendment to HB 8. Agreed and the title was agreed to.

HB 8, by way of Committee Substitute and Title Amendment was passed, and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 8, by way of Committee Substitute and Title Amendment was passed be reconsidered and said motion be placed on the table. Agreed.

HB 56 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that HB 56 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 28, 1986, roll call on HB 56—Appendix A.)

HB 56 was passed and the title agreed to.

Representative Burch moved that the vote by which HB 56 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 7 had been examined and found correctly enrolled. HB 7 read at length compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:50 p.m.)

HB 60 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that HB 60 be passed.

On the roll call the vote was: Yeas 83, Nays 5. (See January 28, 1986, roll call on HB 60—Appendix A.)

HB 60 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 60 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 158 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that HB 158 be passed.

On the roll call the vote was: Yeas 55, Nays 40. (See January 28, 1986, roll call on HB 158—Appendix A.)

HB 158 was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 158 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 235 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that HB 235 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 28, 1986, roll call on HB 235—Appendix A.)

HB 235 was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 235 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 268 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 268 be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See January 28, 1986, roll call on HB 268—Appendix A.)

HB 268 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 268 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 270 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 270 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 28, 1986, roll call on HB 270—Appendix A.)

HB 270 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 270 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rose moved that HB 285 be passed.

On the roll call the vote was: Yeas 86, Nays 4. (See January 28, 1986, roll call on HB 285—Appendix A.)

HB 285 was passed and the title agreed to.

Representative Rose moved that the vote by which HB 285 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 7, with Committee Substitute, Committee Amendment and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Substitute to HCR 7. Agreed.

Representative Pearman moved that HCR 7, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 67, Nays 16. (See January 28, 1986, roll call on HCR 7—Appendix A.)

HCR 7 by way of Committee Substitute, was passed and the title agreed to.

Representative Pearman moved that the vote by which HCR 7, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 154, with Committee Substitute, Committee Amendment and Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of the Committee Substitute to HB 154. Agreed.

Representative Burnette moved the adoption of the Committee Amendment No. 1 to the Committee Substitute for HB 154. Agreed.

Representative Burnette moved HB 154, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 9, (See January 28, 1986, roll call on HB 154—Appendix A.)

HB 154, as amended, was passed and the title agreed to.

Representative Burnette moved the adoption of the Committee Title Amendment to the Committee Substitute for HB 154. Agreed, and the title was agreed to.

HB 181 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that HB 181 be passed.

Representative M. Brown moved that HB 181 be laid on the Clerk's Desk. Agreed.

The motion that HB 181 be laid on Clerk's Desk was adopted.

HB 210 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that HB 210 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 28, 1986, roll call on HB 210—Appendix A.)

HB 210 was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 210 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to act on a Resolution. Agreed.

Representative Stumbo moved the adoption of the following SCR 28:

SCR 28, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives do adjourn on Wednesday, January 29, 1986, they do so to convene again on Monday, February 3, 1986 at a time set by motion upon adjournment.

SCR 28 was adopted by voice vote.

Representative Hancock moved to suspend the rules to act on a Resolution. Agreed.

Representative Hancock moved the adoption of HR 43:

HR 43, A RESOLUTION honoring Kentucky State University upon the occasion of its 100th anniversary.

WHEREAS, from a single-purpose teacher's college in 1886, Kentucky State University has evolved into a strong liberal studies-oriented institution with a singular concentration of preprofessional programs; and

WHEREAS, Kentucky State has grown from its beginning with three teachers and 55 students to a university with a racially balanced enrollment of more than 2,000 full-time and part-time students; and

WHEREAS, Kentucky State College became a university in 1972 and began offering graduate programs in public affairs in 1973; and

WHEREAS, since 1962, the university's enrollment has nearly tripled, its faculty has more than doubled, and it has added 12 buildings to its 309-acre campus; and

WHEREAS, in accordance with the mission prescribed in 1982 by the state Council on Higher Education, Kentucky State is the unique, small, liberal studies university in the Kentucky system; and

WHEREAS, in 1982, Kentucky State University established the Whitney M. Young, Jr. College of Leadership Studies, a unique and impressive program; and

WHEREAS, the fact that in 1982, the governor of Kentucky moved all state government training capabilities to Kentucky State, giving the Governmental Services Center responsibility for all development, coordination, and implementation of all state government training programs, is of special interest to this legislative body; and

WHEREAS, Kentucky State University has served Kentucky with honor and distinction for one hundred years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes this proud institution as it passes this great milestone.

Section 2. That when the House adjourns this day, January 28, 1986, it does so in tribute to Kentucky State University, and to acknowledge that this day is the kickoff day for the University's Venture Fund Campaign.

Section 3. That a copy of this resolution be sent to Raymond M. Bürse, the president of Kentucky State University.

HR 43 was adopted by voice vote.

Representative Head moved to suspend the rules to act on a Resolution. Agreed.

Representative Head moved the adoption of HR 49:

HR 49, A RESOLUTION naming Dale Faughn a poet laureate of Kentucky.

WHEREAS, since he began writing poetry at the age of nineteen, Dale Faughn has produced six volumes of poetry, mostly with religious, patriotic, and self-improvement themes; and

WHEREAS, his published works include such titles as *From the Manger to the Mansion, Don't Be Ordinary*, and *Nurtured by Nature*; and

WHEREAS, Mr. Faughn is known for his poetry recitals, one of the most popular of which is his patriotic one, which he gives dressed as Uncle Sam; and

WHEREAS, Mr. Faughn is president of the Caldwell County Rhyming Poetry Society; and

WHEREAS, Mr. Faughn has served his community as a teacher for thirty-six years, as a civil defense instructor, as a scoutmaster, and as a church leader and Sunday school teacher;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mr. Dale Faughn be named a poet laureate of Kentucky.

Section 2. That a copy of this resolution be sent to Mr. Dale Faughn.

HR 49 was adopted by voice vote.

Representative Priddy moved to suspend the rules to act on a Resolution. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 500, by Representative Johnson: AN ACT relating to the licensure discipline of the practice of medicine and osteopathy.

HB 501, by Representative Johnson: AN ACT relating to cable television programming decency.

HB 502, by Representative Donnermeyer: AN ACT relating to public records.

HB 503, by Representatives Little, Donnermeyer, Seum, Farrow, Nett, Curd, Lile, T. Jones, Mack, Bendl, P. Richardson, Bennett, Scorsone, Clarke, Meyer: AN ACT relating to property taxation and distribution of revenue produced therefrom.

HB 504, by Representative Stumbo: AN ACT relating to gas service from producing wells or gas gathering pipelines.

HB 505, by Representative Dawahare: AN ACT relating to utility rates.

HB 506, by Representative Scorsone: AN ACT relating to individual income tax.

HB 507, by Representative T. Jones: AN ACT relating to budget and financial administration.

HB 508, by Representatives Gray, Clapp, Deskins, Cyrus, Stone, Rapier, Priddy, Strong, Bennett, Donnermeyer, Dawahare, Rose and Burnette: AN ACT relating to motor vehicle operator's licenses.

HB 509, by Representatives Crupper, Gedling, Farrow, Turner, Little, P. Richardson, Kerr, Curd, Smith, Richards, Cline, Strong, Clapp and Reinhardt: AN ACT relating to setting fire on own land.

HB 510, by Representatives Mann and K. Harper: AN ACT relating to energy assistance and weatherization and declaring an emergency.

HB 511, by Representatives Blevins, Moberly, Preston and J. Harper: AN ACT relating to hazardous waste.

HB 512, by Representative Clarke: AN ACT relating to property taxation.

HB 513, by Representative Johnson: AN ACT relating to workers' compensation.

HB 514, by Representative Richards: AN ACT relating to day-care centers.

HB 515, by Representatives Crupper and Strong: AN ACT relating to candidate filing deadlines.

HB 516, by Representative Lear: AN ACT relating to insurance.

HR 53, by Representatives Priddy and Nett: A RESOLUTION extending the warm hospitality of Kentucky to Luciano Pavarotti.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Natural Resources and Environment: HB 418.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Business Organizations and Professions: HB 328.

Representative Priddy moved the adoption of HR 53:

HR 53, A RESOLUTION extending the warm hospitality of Kentucky to Luciano Pavarotti.

WHEREAS, Luciano Pavarotti is undeniably and justifiably acclaimed to be the most popular opera star in the world; and

WHEREAS, opera lovers, music lovers and just plain folks thrill to this magnificent tenor's peerless voice, riveting stage presence and breathtaking emotional vitality; and

WHEREAS, up to now Pavarotti's many fans in Kentucky have had to be content with listening to the singer's many recordings, television and radio performances; and

WHEREAS, due to the tireless efforts of Thompson Smillie, general director of the Kentucky Opera Association, Luciano Pavarotti will appear in Kentucky, January 30th in Freedom Hall giving Kentuckians at long last the opportunity to enjoy this peerless performer in person;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this body welcomes Luciano Pavarotti to the Commonwealth of Kentucky and extends to him the warmest of Southern hospitality—Kentucky style, knowing that his incredible voice will warm the hearts of the many Kentuckians who will have the rare pleasure of hearing the "King of the High C" in his performance in Louisville, January 30th.

Section 2. The Clerk of the House is directed to forward a copy of this resolution to Thompson Smillie, general director of the Kentucky Opera Association with the request that he present it to Luciano Pavarotti with this body's highest regards.

HR 53 was adopted by voice vote.

Motions, Petitions and Communications (continued)

Representative Cyrus moved to take HB 274 from Clerk's Desk and place in Orders of the Day. Agreed.

Representative J. Harper moved that HB 123 be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended to act upon HR 52. Agreed.

Representative Stumbo moved the adoption of the following HR 52:

HR 52, A RESOLUTION in loving memory of those brave space pioneers who perished in the tragedy of the Space Shuttle Challenger.

WHEREAS, the Space Shuttle Challenger did on January 28, 1986, explode shortly after lifting off from the Cape Canaveral Space Center; and

WHEREAS, those seven brave Americans who perished in this terrible tragedy long will be remembered for their enterprising spirit and exalted stature as space pioneers; and

WHEREAS, throughout recorded history a few have made such a supreme sacrifice in order that the many might follow their trailblazing efforts; and

WHEREAS, these "magnificent seven" ever will be recalled for their courage, unselfish devotion to science and exploring the unknown, and their valor in the face of a new and uncertain challenge;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its utter and most profound sense of loss and bereavement upon the deaths of Commander Dick Scobee, Pilot Mike Smith, crew members Judy Resnik, Ellison Onizuka and Ron McNair, and Christa McAuliffe and Greg Jarvis, and does extend to their families its heartfelt sympathy and condolences.

Section 2. That when the House of Representatives does adjourn this day, January 28, 1986, it does so in honor and loving memory of these fine and courageous astronauts.

Section 3. That a copy of this resolution be dispatched to the headquarters of the National Aeronautics and Space Administration.

HR 52 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of HR 52. Agreed.

The following members requested that their names be added as co-sponsors of HR 52: Yeas 89—Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, F. Brown, M. Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Pearman, Preston, Priddy, Pritchett, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative Kerr moved that the rules be suspended to act upon HR 50. Agreed.

Representative Kerr moved the adoption of the following HR 50:

HR 50, A RESOLUTION to adjourn in loving memory of James William "Bill" Waters.

WHEREAS, James William "Bill" Waters of Kenton County, Kentucky, has departed this earthly life and has crossed that final bourne from which no traveler returns; and

WHEREAS, this distinguished Kentuckian was a noted lecturer and authority on the Civil War, his knowledge concerning which he imparted to thousands of students and citizens throughout the Commonwealth of Kentucky; and

WHEREAS, all who knew and admired James William "Bill" Waters sorely grieve over his loss and join his family and many friends who mourn his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the death of James William "Bill" Waters and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns on Tuesday, January 28, 1986, it does so in loving memory of James William "Bill" Waters.

Section 3. That the Clerk be directed to send a copy of this resolution to the family of James William "Bill" Waters.

HR 50 was adopted by voice vote.

Representative Pearman moved that HB 181 be taken from the Clerk's Desk and placed in Orders of the Day. Agreed.

Representative Stewart moved that she be recorded as voting "Yea" on HB 8. Agreed.

Representative Barrows moved that he be recorded as voting "Yea" on HB 154. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bill and Resolutions: Representative Barrows, HB 245; Representative Bendl, HB 311; Representative P. Clark, HB 312; Representative Cline, HB 154; Representative Donnermeyer, HB 120, HB 161, HB 209, HB 472, HB 474; Representative Ellington, HB 105, HB 154; Representative Farrow, HB 30, HB 245; Representative Gedling, HB 312; Representative Heleringer, HB 105; Representative Holbrook, HB 460; Representative Mack, HB 241; Representative Scorsone, HB 205, HB 437, HB 438, HB 439, HB 440, HB 441, HB 442, HB 443, HB 444; Representative Smith, HB 126.

The following member filed a request to have his name withdrawn as a co-sponsor: Representative Keith, HB 24.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to HB 181, by Representative M. Brown:

Amend printed copy of HB 181:

On page 2, line 5, insert after the term "children" the following:

"*, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the state treasurer shall (a) pay ten thousand dollars ($10,000) to the surviving children and (b) hold fifteen thousand dollars ($15,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years. If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate.*"

Floor Amendment No. 1 to HB 181, by Representative M. Brown:

Amend printed copy of HB 181:

On page 3, after line 4, add the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 61.315 shall be effective June 16, 1984."

Floor Amendment No. 3 to HB 274, by Representative Hancock:

Amend printed copy of HB 274:

On page 12, line 9, after the word "unit" by inserting the words "*employing ten (10) or more*"; and

On page 13, after line 10, add the following:

"*(4) Any employing unit employing nine (9) or less or any officer or agent of such an employing unit failing to file reports required under this chapter within ten days after written notice sent by the division to the employing unit or to the officer or agent of the employing unit by certified mail shall be subject, in addition to any other penalty provisions in this chapter to a penalty of ten dollars ($10.00) for failure to file such reports. These penalties shall be collected in the same manner as provided for in KRS 341.300 and shall be paid into the same fund.*

And on page 13, line 12, after the numeral "(1)" add the letter "*(a)*" and on the same line after the word "unpaid" insert the following:

"*by employing units employing ten (10) or more*";

And after line 24, add the following:

"*(b) Contributions unpaid by employing units employing nine (9) or less on the date on which they are due and payable, as prescribed by the secretary, shall be subject to a penalty at the rate of one percent (1%) per month or fraction thereof, not to exceed sixty percent (60%) of the amount of such contributions, from and after such date until payment is received by the department, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section. These penalties shall be paid into the unemployment compensation administration fund.*

Floor Amendment No. 2 to HB 255, by Representative Meyer:

Amend printed copy of HB 255:

On page 2, after line 18,

by inserting the following:

"Section 3. KRS 318.200 is amended to read as follows:

"(1) No water heating device shall be sold or offered for sale [~~in counties with cities of the first class, second class, or with urban-county governments,~~] in the Commonwealth of Kentucky unless it contains thereon a serial number. As used in this section, "water heating device" means any pressure vessel which heats, stores and supplies potable water for domestic or commercial purposes other than for space heating.

"(2) All retailers, wholesalers and installers selling or offering for sale a water heating device shall within thirty (30) days of the date of sale forward a list of names and addresses of purchasers along with the serial numbers of the devices purchased to the appropriate agency of state, county or city government having jurisdiction."

Floor Amendment No. 3 to HB 255, by Representative Blevins:

Amend printed copy of HB 255:

On page 2, line 13,

by deleting after the word "*unit*" the word "*or*" and by inserting in lieu thereof ";"

On line 14,

by inserting after the word "*unit*" the following:

"*; or, upon the request of such owner or resident, a person licensed and acting in accordance with the requirements of KRS 318.010(2) and 318.010(3)*"

Floor Amendment No. 1 to the Committee Substitute to HB 71, by Representative Scorsone:

Amend printed copy of Committee Substitute for HB 71:

on page 12, line 10, before "*Any*" to add the following: "*The Commonwealth's attorney in the case of a felony and the county attorney in the case of a misdemeanor or violation in any case where.*"

and on page 12, line 20, to delete "*victim*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 22, line 20, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 22, line 22, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 22, line 25, to delete "*persons sending the letter*" and to insert "*victim of the crime.*"

and on page 22, line 7, to delete "*person*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 22, line 8, to delete "*who sent the letter.*"

and on page 22, line 11, to delete "*person*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 22, line 20, to delete "*person*" and to insert "*victim of the crime.*"

and on page 22, line 22, to delete "*person*" and to insert "*victim of the crime.*"

and on page 23, line 25, to delete "*person sending the letter*" and insert in lieu thereof "*victim of the crime.*"

and on page 23, line 6, to delete "*person sending the*" and to insert "*victim of the crime.*"

on page 23, line 7, to delete "*letter.*"

and on page 23, line 8, to delete "*person sending*" and to insert "*victim of the crime.*"

and on page 23, line 9, to delete "*the letter.*"

and on page 23, line 12, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 23, line 19, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 23, line 21, to delete "*person sending the*" and to insert "*victim of the crime.*"

and on page 23, line 22, to delete "*letter.*"

and on page 23, line 24, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

Announcements

Appropriations and Revenue meeting cancelled on Wednesday, January 29, 1986.

The following meetings were announced:

Capitol Construction meets on Adjournment.

Appropriations and Revenue: General Government, 8 a.m., Wednesday, January 29, 1986.

Counties and Special Districts: 12 Noon, Wednesday, January 29, 1986.

Cities: 8:30 a.m., Wednesday, January 29, 1986.

Judiciary-Civil: Budget Review, 7 p.m., Tuesday, January 28, 1986, Room 103.

Energy: 12 Noon, Wednesday and on adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m., Wednesday, January 29, 1986.

On the roll call the vote was yeas 78—Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Johnson, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 4—Guenthner, Holbrook, Holloway, Williams.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 29, 1986

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Rapier.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 28, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 517, by Representatives M. Brown and Morris: AN ACT relating to railroad policemen.

HB 518, by Representative White: AN ACT relating to records of state treasurer.

HB 519, by Representative White: AN ACT relating to garnishment of salaries of public officials and employes.

HB 520, by Representative White: AN ACT relating to the department of the treasury.

HB 521, by Representative Freibert: AN ACT relating to medical assistance.

HB 522, by Representative Donnermeyer: AN ACT relating to salary supplements for public employes.

HR 54, by Representatives Stumbo, Little, Deskins, Rose, Brinkley, Stone, Maggard, M. Brown, Dawahare, Worthington and Noe: A RESOLUTION relating to surface coal mining.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 496, HB 498, HB 503, HB 506, HB 507, HB 512.

Banking and Insurance: HB 516.

Education: HB 491.

Energy: HB 505.

Health and Welfare: HB 494, HB 500, HB 510, HB 514.

Judiciary-Civil: HB 501, SB 28, HB 492.

Labor and Industry: HB 499, HB 513.

Natural Resources and Environment: HB 504, HB 509, HB 511.

State Government: HB 493, HB 495, HB 497, HB 502, HB 515, HCR 51, SB 110, SB 111, SB 119, SB 158.

Transportation: HB 508.

Report of Committees

The Committee on Rules reported HB 71 has been posted for passage in Orders of the Day, February 3, 1986.

The Committee on Rules reported HB 205 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Agriculture and Small Business reported HB 64 and HB 149 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.232 is amended to read as follows:

As used in KRS 247.234 and 247.236:

(1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills or excitement. *"Amusement ride" does not include coin-operated amusement devices that carry no more than two (2) persons and devices regulated by the Federal Aviation Administration, the State and Federal Railroad Commission, and vessels under the jurisdiction of the U.S. Coast Guard or the State Water Patrol.*

(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions, *nonmechanical playground equipment, such as swings, slides, seesaws, climbers, trampolines, rider propelled merry-go-rounds, stationary spring-mounted animal devices and physical fitness equipment, unless designated by regulation of the commissioner.*

(3) "Carnival" means an enterprise offering amusement or entertainment to the public by means of one (1) or more amusement rides and attractions.

(4) "Fair" means an enterprise principally devoted to the exhibition of products of agriculture, science, or industry in conjunction with the operation of one (1) or more amusement rides or attractions.

(5) "Owner" means any person who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee.

(6) "Commissioner" means the commissioner of Kentucky department of agriculture or his authorized representative.

HB 149, AN ACT relating to tax credits for capital investment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Qualified investment" means a new partnership interest or new stock in a qualified entity in which interest or stock is purchased for cash by the taxpayer;

(2) "New partnership interest" means either a general or limited partnership interest in a limited partnership if the interest is acquired by the taxpayer from the limited partnership;

(3) "New stock" means a share or shares of stock of a corporation if the stock, when purchased by the taxpayer, is authorized but unissued;

(4) "Qualified entity" means a venture capital limited partnership or corporation certified pursuant to Section 2 of this Act;

(5) "State tax liability" means a taxpayer's total tax liability that is incurred under:

(a) KRS Chapter 132—Intangibles tax;

(b) KRS 136.070—Corporation license tax;

(c) KRS 136.270—Bank and trust company share tax;

(d) KRS 136.300—Savings and loan tax; and

(e) KRS Chapter 141—Income tax.

(6) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The purposes of this Act are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital.

(2) To carry out the purposes of this Act, a Kentucky-based venture capital entity shall be established with the name Commonwealth venture fund to provide financing to business entities including but not limited to corporations and partnerships. The financing may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing is unlimited. The Commonwealth venture fund shall be certified as qualified under this chapter by a panel comprised of the governor of the Commonwealth, the secretary of the Kentucky commerce cabinet and the secretary of the Kentucky revenue cabinet, or their designated representatives. The panel and its respective staffs will establish guidelines relative to the certification of such qualified entity based on the purposes of this Act. Administrative regulations necessary to carry out the purposes of this Act shall be promulgated and issued by the panel and its respective staffs. Such guidelines and regulations shall assure that such qualified entity will make investments in small businesses in return for receiving this credit against state tax liability.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Subject to Section 4 of this Act, a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1986, if the taxpayer purchases a qualified investment in the qualified entity. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1986, 1987 and 1988.

(2) The amount of the credit that a taxpayer may receive under this chapter for a particular year is equal to the lesser of the taxpayer's state tax liability for that tax year or the amount determined as follows:

(a) Add the consideration paid for all qualified investments the taxpayer purchased during that year;

(b) Multiply the amount determined in paragraph (a) of this subsection by four-tenths (.4); and

(c) Add the product determined in paragraph (b) of this subsection to the credit carryover, if any, to which the taxpayer is entitled for that taxable year.

(3) If the amount determined in subsection (2) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1992. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this Act for any subsequent tax year. A credit based on a qualified investment purchased during 1986 shall be a credit carryover to tax years that begin after December 31, 1986.

SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The total amount of credits allowed under this chapter will not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under this Act shall be applied against taxes owed by the taxpayer in the following order:

(a) First, against the taxpayer's income tax liability for the tax year;

(b) Second, against the taxpayer's intangibles tax liability for the tax year;

(c) Third, against the taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(d) Fourth, against the taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) To receive the credit provided by this Act, a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the revenue cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the qualified entity as to the qualified investment by the taxpayer.

(2) The qualified entity shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment in the qualified entity the following:

(a) The name, address, and employer identification number of the qualified entity;

(b) The name, address and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the revenue cabinet shall be filed by the qualified entity on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the qualified entity on or before that same date.

The Committee on Cities reported HB 366, SB 3 and SB 107 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 366, AN ACT relating to the Kentucky urban affairs council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council which [~~council~~] shall consist of the mayors of all cities of the first and second classes *and urban county governments.* The mayor of Louisville shall serve as the

first chairman and subsequent chairmen shall be elected *annually* by the council members. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the governor annually and the General Assembly.

(2) The council shall be attached to the department for local government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.

SB 3, AN ACT relating to municipal water and sewer systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

Any city that owns or operates a water supply *or sanitary sewer* system may extend the system into, and furnish and sell water *and provide sanitary sewers* to any person within, any territory contiguous to the city, and may install within that territory necessary apparatus; *Provided, however, that the extension of a sewer system does not enter into any territory served by an existing sanitary sewer district unless such district requests the extension of sewer services from a city. For these purposes* [~~this purpose~~] the city may condemn or otherwise acquire franchises, rights and rights of way, as private corporations may do.

SB 107, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Agency" means an urban renewal and community development agency of a taxing district, established pursuant to KRS Chapter 99, a development authority established pursuant to KRS 99.610 to 99.680, or a nonprofit corporation established pursuant to KRS Chapter 58;

(2) "Development area" means an area defined as such in KRS Chapter 99, or a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010;

(3) "Increment" means that amount of money received by any taxing district which is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district and an agency have agreed upon a division under the terms of a contract or release;

(4) "New revenues" means the revenues received by any taxing district from a development area in any year after the establishment of the development area;

(5) "Old revenues" means the amount of revenues received by any taxing district from a development area in the last year prior to the establishment of the development area;

(6) "Project" means any urban renewal or redevelopment or public project undertaken in accordance with the provisions of KRS Chapter 99, or any project undertaken pursuant to KRS 99.610 to 99.680, or any project undertaken in accordance with the provisions of KRS Chapter 58;

(7) "Release" or "contract of release" means that agreement by which a taxing district permits the payment to an agency of a portion of increments received by it in return for the benefits accrued to the taxing district by reason of a project undertaken by an agency in a development area; and

(8) "Taxing district" means a county, a city of the first or second class or urban county government which encompasses all or part of a development area or a special district having the power to levy ad valorem taxes in all or any part of the development area, but shall not mean a school district.

SECTION 2. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

It is found and declared that public improvements, and publicly promoted private improvements, in any development area which result in the increase in the value of property located in the development area or result in increased employment within the development area serve a public purpose for each taxing district possessing the authority, directly or indirectly, to impose ad valorem taxes or occupational license fees in the development area. The increment in revenues derived by each taxing district from the development area is found and declared to be one of the benefits derived by each taxing district from any urban renewal or redevelopment project, local development authority project, or public project, undertaken by the agency.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

In connection with the establishment of any development area, an agency may enter into contracts with one (1) or more taxing districts for the release to the agency of increments expected to be derived by such taxing district as a result of the undertaking of a project, provided, however, that no such contract shall require the release of less than fifty percent (50%) of such increments, or more than ninety-five percent (95%) of such increments where the revenue is derived solely from ad valorem taxation or solely from occupational license fees, or more than eighty percent (80%) of such increments where the revenue is derived from ad valorem taxation and occupational license fees. Any amount derived by the agency under the terms of such release shall be used solely and only for the purposes of the project and in the development area.

SECTION 4. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

Each taxing district is authorized to execute a contract of release with any such agency in acknowledgment of benefits to be derived by it from the project, and in order to promote the public purposes of said taxing district. Any contract signed for the release of increments shall be made on the basis of automatic year to year renewals, for a period not to exceed twenty-five (25) years, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the contract. In lieu of such automatic renewals, a contract for a longer term of years may be entered into if approved by two-thirds (2/3) of the voters voting on the question within the taxing district executing the contract in accordance with the provisions of Constitution Section 157.

SECTION 5. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

Any agency which enters into a contract with any taxing district for the release of any increments which may arise during the period of a contract of release shall forthwith notify the official charged with the collecting of taxes for the property in the development area of the execution of such contract of release and the official charged with the collection of taxes shall in each year a contract of release is in effect determine the amount of the increment which is the subject of the contract of release for division between the taxing district and the agency; and, upon the basis of the agreement made between the taxing district and the agency, he shall divide and distribute the funds derived from the area between the taxing district and the agency.

Section 6. The following KRS sections are repealed:

99.750 Definitions for KRS 99.750 to 99.770.

99.755 Imposition of ad valorem tax in development area.

99.760 Contracts with taxing districts for release of increments.

99.765 Taxing district authority for contract of release.

Senate Message

Announcing passage of SB 42, SB 88 and HCR 21.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: HB 480, SB 92, SB 69, HB 467, HB 466, HB 396.

Appropriations and Revenue: HB 464, SJR 7.

Health and Welfare: HB 477, HB 225, HB 404.

Report on Enrolled Bills

The Committee on Enrollment reported SCR 28 had been examined and found correctly enrolled. SCR 28 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate (Time 2:09 p.m.)

Calendar

HB 162, HB 182, HB 278, HB 332, HB 460, HB 219, HB 287, HB 298, HB 198, HB 220, HB 356, HB 363, HB 16, HB 293, HB 315, HB 333, HB 434, HB 300, HB 385, HB 148, HB 277 and HB 383, taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 274, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that HB 274, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 29, 1986, roll call on HB 274—Appendix A.)

HB 274, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 274, as amended, was passed by reconsidered and said motion be placed on the table. Agreed.

HB 41, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved the adoption of Committee Amendment No. 1 to HB 41. Agreed.

Representative P. Richardson moved HB 41, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See January 29, 1986, roll call on HB 41—Appendix A.)

HB 41, as amended, was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HB 41, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of Committee Amendment No. 1. Agreed.

Representative Reinhardt moved the adoption of Committee Amendment No. 2. Agreed.

Representative Cowan moved HB 390, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See January 29, 1986, roll call on HB 390—Appendix A.)

HB 390, as amended, was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 390, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

HB 7, delivered to the Senate, signed by President, Ordered delivered to the Governor.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 523, by Representative Burch: AN ACT changing the classification of the City of Watterson Park, in Jefferson County.

HB 524, by Representative Cline: AN ACT relating to insurance.

HB 525, by Representatives Gedling, Kerr and Pritchett: AN ACT relating to vehicle registration.

HB 526, by Representative Holbrook: AN ACT relating to insurance.

HB 527, by Representative Barrows: AN ACT relating to gifted and talented education programs.

HB 528, Representatives Brinkley and Stone: AN ACT relating to underground coal mining.

HB 529, by Representative Kerr: AN ACT relating to the enforcement of city ordinances.

HB 530, by Representatives Gray and Clapp: AN ACT relating to workers' compensation.

HB 531, by Representative Gray: AN ACT relating to retirement credit for tip income.

HB 532, by Representative Ford: AN ACT relating to wrongful death.

HB 533, by Representative Clapp: AN ACT relating to workers' compensation.

HR 55, by Representative Bronger: A RESOLUTION adjourning the House of Representatives in memory and honor of Frank Camp.

HR 56, by Representative Reinhardt: A RESOLUTION designating the Kentucky Wool Festival held in Pendleton County, Kentucky, the official Kentucky Wool Festival.

HR 57, by Representative Kerr: A RESOLUTION to adjourn in loving memory of Cecil Bates.

HJR 58, by Representative Gray: A JOINT RESOLUTION directing an investigation of the insurance industry in Kentucky and calling upon the President and the Congress of the United States and the Governors and Legislatures of the 49 states to join in this effort.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: HB 392, HB 428, SB 21, SB 24.

State Government: SB 142.

Labor: HB 486.

Banking and Insurance: HB 296.

Transportation: HB 326, HB 126, HB 276, SB 16.

Judiciary-Criminal: HB 311, HB 463, HB 470, HB 450.

Report of Committees

The Committee on Counties and Special Districts reported HB 3, with Committee Amendment attached thereto, HB 10, with Committee Amendment attached thereto, HB 142, HB 334, with Committee Amendment attached thereto, and HB 368 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to public finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks *and* [~~,~~] sheriffs[~~, and jailers; provided, however, that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office, in accordance with KRS 64.810~~].

(2) *(a)* The auditor may audit the books, accounts and papers of all county judges/executive, county attorneys, coroners and constables.

(b) The auditor shall not conduct an audit pursuant to subsection (1)(a) or (1)(b) of this section if the fiscal court or the elected official notifies the auditor that a certified public accountant has been employed to audit the books, accounts and papers of the county or the fee office, in accordance with KRS 64.810.

(3) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(b) and (2) of this section. No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsection (1)(a) or (1)(b) of this section except as provided for in KRS 64.810(4).

(4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the finance and administration cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the finance and administration cabinet and to the state treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the auditor shall notify the secretary of the finance and administration cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts. When an objection to the bill has been filed with the secretary of the finance and administration cabinet and the state treasurer in accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the finance and administration cabinet and the state treasurer for a decision as to

the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 2. KRS 43.075 is amended to read as follows:

(1) The auditor shall develop uniform standards and procedures for conducting, and uniform formats for reporting, all audits of *county budgets and* the accounts, books and papers of elected county or district officials performed under KRS 43.070(1)(a) and (b), *43.070(2)(b)* or [~~KRS~~] 64.810. The auditor shall promulgate the uniform standards and procedures by administrative regulation according to KRS Chapter 13A.

(2) *Upon and after the effective date of this Act* [~~Effective July 1, 1977~~], no person shall conduct an audit under KRS *43.070(1)(a),* 43.070(1)(b), *43.070(2)(b)* or [~~KRS~~] 64.810 which does not comply with the standards and procedures promulgated by the state auditor of public accounts under subsection (1) of this section.

(3) The uniform audit standards and procedures promulgated by the auditor shall include but need not be limited to the requirement that each person performing an audit shall determine whether the *fiscal court or* county official is complying with the requirements of the uniform system of accounts adopted under KRS 68.210, whether *there is accurate recording of* [~~the county official is accurately recording~~] receipts by source and expenditures by payee, and whether or not each official is complying with all other legal requirements relating to the management of public funds by his office, including all publication requirements. The requirements for uniform formats for audit reports shall require that the format of reports for each category of county or district office shall be uniform.

(4) The auditor shall make informational copies of the regulations containing the audit standards and procedures available to interested persons at their request, and may charge a reasonable fee for such copies.

Section 3. KRS 64.810 is amended to read as follows:

(1) Any *fiscal court,* county clerk *or* [~~,~~] sheriff[~~, or jailer~~] may employ a certified public accountant to audit the books, accounts, and papers of *the county or* his office in lieu of the audit conducted by the state auditor of public accounts required by KRS 43.070, if the auditor of public accounts declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

(2) *A fiscal court which has elected to employ a certified public accountant pursuant to subsection (1) of this section shall notify the state auditor in writing by July 31 following the fiscal year to be audited of the name of the certified public accountant it has employed. The fiscal court shall bear the full cost of any audit conducted pursuant to this section. An elected official who has elected to employ a certified public accountant pursuant to subsection (1) of this section* [~~If said official elects to exercise the right prescribed in subsection (1) of this section, then he~~] shall:

(a) Notify *the fiscal court and the state auditor* in writing by January 30 following the calendar year to be audited [~~the fiscal court of his county and the state auditor~~] of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office;

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office.

(3) Any contract with a certified public accountant entered into *pursuant to this section* [~~as a result of the auditor of public accounts declining to perform the audit~~] shall specify the following:

(a) The audit *of a county official* shall be completed by August 1 following the calendar year being audited, *and the audit of a county budget shall be completed by February 1 following the fiscal year being audited*;

(b) The certified public accountant shall forward a copy of the *fee officer* audit report and management letters to the county official, fiscal court of the county and the auditor of public accounts upon completion of the audit, and no later than August 1 following the calendar year being audited;

(c) *The certified public accountant shall forward a copy of the county budget audit report and management letters to the fiscal court of the county and the auditor of public accounts upon completion of the audit and no later than February 1 following the fiscal year being audited;*

(d) The auditor of public accounts shall have the right to review the certified public accountant's work papers *before and after the release of the audit.*

(4) After preliminary review of the certified public accountant's work papers, should discrepancies be found, *the auditor of public accounts shall notify the fiscal court or fee official of the discrepancies. Should the certified public accountant not correct such discrepancies prior to the release of the audit,* the auditor's office may conduct its own audit to verify the findings of the certified public accountant's report. If such audit is conducted, the expenses to said county *or county* official, as directed by KRS 43.070(4)shall be construed as an allowable expense of [~~that~~] office. If the audit conducted by the auditor of public accounts discloses discrepancies in the audit by the certified public accountant, the findings of the auditor of public accounts shall be deemed official for purposes of collection of money owed the county pursuant to KRS 64.820.

(5) No later than *February 1 following the fiscal year being audited, or* August 1 following the calendar year being audited, the *fiscal court or* county official shall submit the accountant's written report to the governor, the general assembly, the attorney general, [~~the county officials' compensation board,~~] the state librarian and county attorney of his county. In addition the *fiscal court or the* official shall send the report to the newspaper having general circulation in the county [~~of the official~~], and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

(6) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above named officials be audited yearly.

Section 4. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, [~~and have the accounts of all county officers audited, when necessary;~~] employ a competent person to keep such accounts and records, [~~and make such audits, and~~] pay such person a reasonable compensation for such services, *and have the accounts of the county and all county officers audited, when necessary and in accordance with the provisions of KRS 43.070 and 64.810*;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county;

(d) Provide for the incarceration of prisoners according to the provisions of KRS Chapter 441.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 5. KRS 64.152 is amended to read as follows:

(1) In counties containing a population of less than seventy-five thousand (75,000), the county clerk [~~and the jailer~~] shall [~~each~~] provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year of all funds received by his office in an official capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(2) At the time of filing the statement required by subsection (1) of this section, the clerk [~~and jailer~~] shall [~~each~~] pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this section shall not be construed to amend KRS 64.820.

(3) When the county clerk [~~or jailer~~] vacates his office, the provisions of KRS 64.830 shall be applicable.

The Committee Amendment No. 1 to HB 3 is as follows:

Amend printed copy of HB 3:

On page 8, line 6, by placing brackets around and striking through the word "general," and by substituting therefore the words "*largest paid.*"

HB 10, AN ACT relating to deputy sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.045 is amended to read as follows:

(1) *The sheriff, except in urban-county governments or counties containing a city of the first class, may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each five thousand (5,000) residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order. The population of the county shall be determined by the most recent count or estimate by the federal bureau of census.*

(2) The sheriff in each county, *including urban-county governments and counties containing a city of the first class,* may appoint and have sworn in, and entered on the county clerk order book, as many special deputies as needed to assist him in the execution of his duties and office in preparation for or during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.

(3)[~~(2)~~] The special deputy shall:

(a) Be appointed and dismissed on the authority of the sheriff;

(b) Not receive any monetary compensation for his time or services;

(c) Serve at the request of the sheriff, unless personal conditions rule otherwise;

(d) Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and

(e) Be appointed regardless of race, color, creed or position.

(4)[~~(3)~~] The position of special deputy as created and defined in subsections (1), [~~and~~] (2) *and (3)* is subject to the provisions of this section only.

The Committee Amendment No. 1 to HB 10 is as follows:

Amend printed copy of HB 10:

On page 1, line 2, by deleting the following: "*, except in urban-county governments*"; and on page 1, line 3, by deleting " *or counties containing a city of the first class,*"; and on page 1, line 11, by deleting "*, including*"; and on page 1, line 12, by deleting all of line 12; and on page 1, line 13, by deleting " *the first class,*"

HB 142, AN ACT relating to county judge/executive appointments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.710 is amended to read as follows:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and such additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office, department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the fiscal court or as he deems necessary;

(7) Exercise with the approval of the fiscal court the authority to appoint, supervise, suspend, and remove county personnel (unless otherwise provided by state law); and

(8) With the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create. The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter. *In counties containing a city of the first class, the county judge/executive shall appoint to a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, he shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, he shall equalize appointments to the extent possible. He shall attempt to balance appointments among all such boards and commissions in order to equalize representation of all districts over the entire range of such boards and commissions.*

HB 334, AN ACT relating to county personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix [~~the number of deputies and assistants, and the compensation thereof, and~~] the maximum amount that the officer may expend each year for expenses of his office. *The fiscal court shall fix annually the maximum amount which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.*

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, *consistent with the provisions of subsection (3) of this section,* not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

The Committee Amendment No. 1 to HB 334 is as follows:

Amend printed copy of HB 334:

On page 2, line 3, by inserting after the word "*amount*" the following: "*, including fringe benefits,*"; and

on page 2, line 19, by placing an opening bracket "[" before the word "The", and by striking through the words "The fiscal court may, upon the";

and on lines 20 through 26, by striking through all of lines 20 through 26;

and on page 3, line 1, by placing a closing bracket "]" after the word "assistants.", and by striking through the words "same time as that of other deputies and assistants."

HB 368, AN ACT relating to sanitation district officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 220.170 is amended to read as follows:

(1) The board of directors shall, upon taking oath, elect one of their members as president of the board, and shall select some suitable person as secretary, who need not be a member of the board. The secretary shall serve as treasurer of the district, or the board may select a treasurer. The selection of the secretary and treasurer shall be evidenced on the minutes of the board, with their compensation. They shall serve at the pleasure of the board.

(2) The board shall adopt a seal, and shall keep in a well-bound book a record of all proceedings, minutes of meetings, certificates, contracts, bonds given by employes and all corporate acts, which shall be open to the inspection of any owner of property in the district as well as all other interested persons.

(3) The board of directors shall be the governing body of the sanitation district, and shall exercise all the powers and manage and control all the affairs and property of the district.

(4) The board of directors may prescribe the duties and fix the compensation of all the officers of the district, subject to the limits fixed in this section. No member of the board of directors, except the chairman, shall receive more than twenty-four hundred dollars ($2,400) per annum. The chairman shall receive not more than six hundred dollars ($600) per annum in addition to his compensation as a director. [~~The treasurer shall receive not more than nine hundred dollars ($900) and the secretary not more than three hundred dollars ($300) per annum.~~]

(5) The board may adopt all necessary rules and regulations for the proper management and conduct of the business of the board and of the corporation, and for carrying into effect the other objects for which the district was formed. All such rules or regulations shall become effective only upon posting in at least ten (10) public places within the district.

The Committee on Business Organizations and Professions reported HB 405, HB 445, SB 73, with Committee Amendment attached thereto, and SB 104 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 405, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.500 is amended to read as follows:

(1) No person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons or labels taken from any bottle, case, barrel or package containing malt beverages or to offer or give anything of value as a premium, gift or prize for any purpose in connection with the sale of malt beverages.

(2) Subsection (1) of this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift or prize to wholesalers, distributors or their

employes in connection with sales incentive programs; *nor shall subsection (1) of this section prohibit a brewer from advertising, offering and giving to consumers a rebate or mail-in certificate wherein the consumer receives a cash refund from the brewer upon submission of the requisite proof of purchase by the consumer to the brewer.*

HB 445, AN ACT relating to retirement benefits of alcoholic beverage control field representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer *and the position in state government of alcoholic beverage control field representative*), active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

SB 73, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.120 is amended to read as follows:

A distiller's, rectifier's or vintner's license shall authorize the licensee to engage in the business of distiller, rectifier, or vintner at the premises specifically designated in the license and to transport for himself only any alcoholic beverage which he is authorized under the license to manufacture or sell. Such licensee shall transport alcoholic beverages only by a vehicle owned and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, *unless the owner of such truck or vehicle holds a distributor's license.*

Section 2. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located, import a non-U.S. brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue; or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employes for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, *unless the owner of such truck or vehicle holds a wholesaler's license.*

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

The Committee Amendment No. 1 to SB 73 is as follows:

Amend printed copy of SB 73:

on page 1, line 16, after the word "*license,*" by adding "*and malt beverage license*"

on page 2, line 17, after the word "*license,*" by adding "*and malt beverage license*"

SB 104, AN ACT relating to optometry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of optometric examiners;

(2) "Practice of optometry" means the employment of any means *including* [~~other than the use of drugs, except~~] the administration of *topical* [~~diagnostic~~] pharmaceutical agents as authorized in KRS 320.240, *except* [~~medicine or~~] surgery *or injection in examination, diagnosis and treatment of* [~~to examine~~] the human eye *and its appendages,* to determine the visual efficiency of the human eye, or to determine the powers or defects of vision, *provided that superficial foreign bodies may be removed from the eye and its appendages*; the prescribing, providing, furnishing, adapting, using or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise or any other means or device *including topical* [~~other than the use of drugs, except diagnostic~~] pharmaceutical agents as authorized in KRS 320.240, *excluding the use of* [~~medicine or~~] surgery *or injection* for the aid, relief or correction of *the human eye and its appendages* [~~vision~~];

(3) *"Appendages" means the eyelids, the eyebrows, the conjunctiva and the lacrimal apparatus.*

(4) "Visual aid glasses" means eyeglasses, spectacles or lenses designed or used to correct visual defects; Provided, however, That nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light;

and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;

(5)[~~(4)~~] An orthoptic technician is a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter provided that such training and directions are done pursuant to and under the instructions of a duly licensed physician, osteopath or optometrist and consists solely of visual training, orthoptics or ocular exercises.

Section 2. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice-president, and secretary-treasurer. In addition, the board upon call of its officers, may hold meetings at such time as it deems necessary. The secretary-treasurer shall keep a full record of its proceedings which shall be open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address and license number of every person licensed to practice optometry in this state.

(3) The attorney general shall render to the board such legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall make and promulgate reasonable rules and regulations and do any and all things which it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists.

(5) The board shall have a common seal.

(6) The board shall have authority to administer oaths and to require the attendance of witnesses, the production of books, records and papers pertinent to any matters coming before the board by the issuance of process which shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided in the event of disobedience of a subpoena or subpoena duces tecum in a civil action.

(7) The board shall make rules and regulations governing applicants and applications for registration or license under this chapter and governing the conduct of licensing examinations.

(8) The board shall from time to time accredit schools and colleges teaching optometry, the graduates of which shall be eligible to licensing examinations.

(9) The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.

(10) The board shall have authority to assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(11) The board shall have such other powers and duties as may be provided in the provisions of this chapter.

(12) The board shall make a report of its proceedings to the governor on or about January 1st of each year, including an accounting of all moneys received and disbursed.

(13) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of such diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from

a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States *department* [~~office~~] of education.

(14) *The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (13) of this section to utilize and prescribe topical therapeutic pharmaceutical agents in the examination or treatment of any condition of the eye or its appendages. The utilization or prescribing of topical therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation or by the United States department of education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (13) of this section, making a total of twelve (12) semester hours.*

(15) Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics to be applied topically only. *Any optometrist authorized by the board to utilize topical therapeutic pharmaceutical agents shall be permitted to prescribe in the practice of optometry topical therapeutic pharmaceutical agents.* Optometrists so authorized by the board to purchase [~~diagnostic~~] pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. [~~to obtain drugs, however,~~] Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (13) of this section, *based upon the authority conferred upon the optometrist by the board consistent with the educational qualifications of the optometrist as set out herein* [~~and shall be on purchase order forms provided by the board~~]. *All purchases of pharmaceutical drugs by optometrists shall be upon purchase order forms provided by the board.*

Section 3. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than seventy-five dollars ($75). Not later than February 15 of each year the secretary-treasurer shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the optometrist shall furnish the information required by such form. As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year. *For the year 1986 and each year thereafter, those optometrists who are certified to prescribe therapeutic pharmaceutical agents shall have an additional two (2) credit hours of continuing education in ocular therapy each year, making a total of ten (10) credit hours required for license renewal.* Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state. The board shall waive the continuing education requirement in cases of illness or undue hardship.

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 4. KRS 217.015 is amended to read as follows:

For the purpose of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the cabinet for human resources;

(2) The term "cabinet" means the cabinet for human resources or its designee;

(3) The term "person" includes individual, partnership, corporation, and association;

(4) The term "food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) The term "drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(c) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device" (except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095) means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" does not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying such article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

(16) The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) The term "federal act" means the Federal Food, Drug and Cosmetic Act; (Title 21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq. or amendments thereto);

(19) The term "flour" includes and shall be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" include, and shall be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts

and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if such compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering *or prescribing* [~~the diagnostic~~] pharmaceutical agents authorized in subsections (13), [~~and~~] (14) *and (15)* of KRS 320.240;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, [~~or~~] veterinarian *or optometric* practitioner, and intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(25) The term "Federal Meat Inspection Act" means the Federal Meat Inspection Act; (Title 21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq. including any amendments thereto);

(26) The term "Federal Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act. (Title 21 U.S.C. Sec. 451 et seq.; public law 85-172; 71 Stat. 441 including any amendments thereto);

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics (15 U.S.C. Sec. 1451, et seq.), and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal insecticide, fungicide and rodenticide act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use) if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the food additives amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act (21 U.S.C. Sec. 451 et seq.) or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" includes, but is not limited to black, white and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Federal Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972 (Public Law 92-516) and all amendments thereto;

(33) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(34) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means.

Senate Message

Announcing passage of SB 101.

Motions, Petitions and Communications

Representative Head moved the adoption of the following Legislative Citation No. 17. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, MARCIA HALL, KIM TAYLOR, CANDY BELT, LaSENNA POWELL, LESLIE MAY, MANDY WALKER, STACEY WOOLFOLK, and AYANNA BROWN, as members of the Providence High School Cross Country Track Team. We commend you and your excellent coach, DARRELL HAYES, for the stamina and perseverance that has merited highest acclaim as State Champions for 1985. Your record over the past ten years reflects two time State Champions, (1981 and 1985) finishing 2nd—4 times, 3rd—1 time and 4th—2 times which is noteworthy and commendable. This prestigious body salutes and applauds you for the honor you have bestowed on your family, school, community, and the Commonwealth of Kentucky. (Sponsored by Representative Head)

Representative Rose moved the adoption of the following Legislative Citation No. 18. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the KENTUCKY OPTOMETRISTS, for your participation in the charitable and worthwhile Kentucky "Vision" project. Your donation of time and professional services in providing free, full-scope vision care for the working poor is most commendable and noteworthy. Your voluntary and cooperative support as optometrists, optical laboratories, frame and lens manufacturers and supplies is of vital importance to the success of this integral undertaking. This service is unique in that it is totally a private endeavor and depicts your benevolent and humanitarian spirit.

This prestigious body salutes and applauds you for the aid and help you are providing this Commonwealth of Kentucky, and the honor and pride you have bestowed on your organization of Optometrists. (Sponsored by Representative Rose)

Representative Brinkley moved to suspend the rules to consider a Resolution. Agreed.

Representative Brinkley moved the adoption of the following HR 54:

HR 54, A RESOLUTION relating to surface coal mining.

WHEREAS, the Surface Mining Control and Reclamation Act (SMCRA), of 1977, was designed to delegate to the states the primary responsibility to enforce the requirements of the Act; and

WHEREAS, a rulemaking petition has been filed with the Department of the Interior as reported in the January 3, 1986, *Federal Register*, pages 272-277, which would restrict the flexibility of the Federal Office of Surface Mining in dealing with their oversight investigation and impede the ability of the coal states to retain primary jurisdiction over their regulatory program; and

WHEREAS, the Commonwealth of Kentucky has worked diligently with OSM to improve the quality of its regulatory program; and

WHEREAS, the petition falsely states that there have been no substantial improvements in the various coal states' ability to enforce their programs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes the progress that the Commonwealth has made in enforcing the requirements of the Surface Mining Control and Reclamation Act and urges that the aforesaid rulemaking petition be denied by the Department of the Interior.

HR 54 was adopted by voice vote.

Representative Bronger moved to suspend the rules to consider a Resolution. Agreed.

Representative Bronger moved the adoption of the following HR 55:

HR 55, A RESOLUTION adjourning the House of Representatives in memory and honor of Frank Camp.

With deepest respect we pay homage and tribute to the memory of our beloved friend, Frank Camp.

WHEREAS, known to his family and friends as "a giant of a man," Frank Camp traversed these earthly bounds on Sunday, January 26, 1986; and

WHEREAS, as a high school football coach at Hodgenville, Glasgow and Henderson City, Frank Camp had a remarkable record of 102-35; and

WHEREAS, Frank Camp resurrected University of Louisville football after World War II and repeatedly saved the sport while serving 23 years as head coach; and

WHERERAS, in 1947, Frank Camp coached an undefeated team—U of L's first unbeaten team since 1925; and

WHEREAS, Frank Camp also coached U of L to a 9-1 record in 1957, including a 34-20 victory over Drake in the Sun Bowl in El Paso, Texas; and

WHEREAS, Frank Camp served as U of L's assistant director of athletics until 1975; and

WHEREAS, Frank Camp's outstanding leadership kept football alive in spite of lack of resources; and

WHEREAS, Frank Camp was the winningest coach in U of L history and secured the commendable record of 118-95-2 as a coach; and

WHEREAS, Frank Camp altruistically served as past president of the Kentucky Easter Seal Society and also served as a member of the Rotary Club of Louisville; and

WHEREAS, revered by his peers, Frank Camp is remembered as a "father figure who gave discipline and drive" according to former U of L running back, Lenny Lyles, who went on to play 12 years in the NFL; and

WHEREAS, most importantly, Frank Camp was a loving husband to his wife, Nancy, and a devoted father of four and grandfather to seven grandchildren; and

WHEREAS, Frank Camp's generosity and affable manner will be sorely missed by those who had the good fortune of being associated with him;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its utter sense of bereavement and loss upon the death of Frank Camp and commits his loving family to the solace of the Almighty.

Section 2. That when the House does adjourn this day Wednesday, January 29, 1986, it does so in memory and honor of Frank Camp.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the family of Frank Camp.

HR 55 was adopted by voice vote.

Representative Kerr moved to suspend the rules to consider a Resolution. Agreed.

Representative Kerr moved the adoption of the following HR 57:

HR 57, A RESOLUTION to adjourn in loving memory of Cecil Bates.

WHEREAS, Cecil Bates of Kenton County, Kentucky, has departed this earthly life and has crossed that river to meet his Lord and Savior on the other shore; and

WHEREAS, this honorable gentleman served with distinction the people of Kentucky in his capacity as the individual in charge of the boiler room at Booth Memorial Hospital, where he had worked for some thirty years; and

WHEREAS, Cecil Bates was the devoted husband of Viola Bates and loving father of five sons; and

WHEREAS, all who knew and admired Cecil Bates will sorely grieve over their loss, and join his family and friends who mourn his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the death of Cecil Bates and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns on Wednesday, January 29, 1986, it does so in loving memory of Cecil Bates.

Section 3. That the Clerk be directed to send a copy of this resolution to the family of Cecil Bates.

HR 57 was adopted by voice vote.

Representative B. Richardson moved to reconsider the vote by which **HB 217** was defeated.

On the roll call the vote was Yeas 65—Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, F. Brown, Burch, L. Clark, P. Clark, Clarke, Cowan, Cyrus, Dawahare, Donnermeyer, Gedling, Gregory, J. Harper, K. Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Smith, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington. Nays 14—Allen, M. Brown, Crupper, Ellington, Farrow, Ford, Jensen, Keith, Napier, Noland Preston, Siler, Stewart, Williams.

The Motion to reconsider **HB 217** was adopted.

Representative B. Richardson moved to place **HB 217** in Orders of the Day, February 3, 1986. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 3 to **HB 181**, by Representative M. Brown:

Amend printed copy of HB 181:

On page 2, line 5, insert after the term "children" the following:

", eighteen (18) or more years of age For surviving children less than eighteen (18) years of age, the state treasurer shall (a) pay ten thousand dollars ($10,000) to the surviving children and (b) hold fifteen thousand dollars ($15,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years. If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate."

and on page 3, below line 4, add the following:

"(7) The provisions of this section relating to any auxiliary police officer and to the disposition of funds if there is no surviving spouse shall be retroactive to June 16, 1984."

Floor Amendment No. 1 to HB 363, by Representative Bennett:

Amend printed copy of HB 363:

On page 2, line 8, after the word "*employer*" insert the words "*or his insurer*"

Representative Hines moved that he be recorded as voting "Yea" on HB 210, HB 270, HB 235, HB 56, HB 8 and HR 7. Agreed.

Representative White moved that she be recorded as voting "Yea" on HB 154. Agreed.

Announcements

The following meetings were announced:

Judiciary-Criminal: 30 minutes on adjournment today in Room 109.

Natural Resources and Environment: Budget Sub. Room 103 on adjournment (Tourism budget).

Appropriations and Revenue: Wednesday, February 5, 1986, 8 a.m., Room 109 (SB 7).

Capitol Construction meets on adjournment today.

Education: Public Hearing, Thursday, February 6, 1986, 10 a.m.

Appropriations and Revenue: Public Hearing, 9 a.m., Thursday, February 6, 1986, (Human Resources).

Appropriations and Revenue: Monday, February 3, 1986 at 10 a.m.

Transportation: Monday, February 3, 1986 at 2 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4 p.m., Monday, February 3, 1986.

On the roll call the vote was yeas 77—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cowan, Crupper, Cyrus, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Holbrook, Holloway, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 3—Keith, Overstreet, Williams.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 3, 1986

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Overstreet.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 29, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 534, by Representatives Cyrus, Maggard, Holloway, Siler, Gray, Brinkley, Stone, Holbrook, R. Jones, Caldwell, Ford, Guenthner and Jensen: AN ACT relating to crimes and punishments.

HB 535, by Representative Cowan: AN ACT relating to sexual offenders.

HB 536, by Representatives Keith and Todd: AN ACT relating to judicial circuits.

HB 537, by Representative Meyer: AN ACT relating to jails and declaring an emergency.

HB 538, by Representative Meyer: AN ACT relating to legal notices.

HB 539, by Representative Meyer: AN ACT relating to insurance.

HB 540, by Representatives Gregory and Hancock: AN ACT relating to the consignment of fine art.

HB 541, by Representative Burch: AN ACT relating to dentists and dental specialists.

HB 542, by Representative Burch: AN ACT relating to dentistry.

HB 543, by Representative Pearman: AN ACT relating to limitations of actions.

HB 544, by Representative Pearman: AN ACT relating to pawnbrokers.

HR 59, by Representative Hines: A RESOLUTION honoring Ms. Nomonde Ngubo and welcoming her to this chamber.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 522.

Banking and Insurance: HB 524, HB 526, HJR 58.

Cities: HB 523, HB 529.

Education: HB 527.

Health and Welfare: HB 521.

Judiciary-Civil: HB 518, HB 519, HB 532.

Labor and Industry: HB 530, HB 533.

Natural Resources and Environment: HB 528, SB 101.

State Government: HB 517, HB 520, HB 531, SB 42, SB 88.

Transportation: HB 525.

Report of Committees

The Committee on Rules reported HB 148, HB 182, HB 198, HB 220, HB 277, HB 278, HB 287, HB 315, HB 332, HB 356, HB 363, HB 383 and HB 460 have been posted for passage in Orders of the Day, February 4, 1986.

The Committee on Rules reported HB 219, HB 298, HB 300, HB 385 and HB 150 have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Counties and Special Districts reported HB 347, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 347, AN ACT relating to health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(b) The term "state employe" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. *It shall also include a person who is regularly employed by any Kentucky county if that county elects to offer the insurance and health maintenance organization coverage described in this section.* It shall also include a person who must fulfill the requirements established by the state board of education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance

organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) *The government of any Kentucky county may participate in the insurance and health maintenance organization coverage offered under this section. The fiscal court of each county which elects to participate shall notify the secretary of the finance and administration cabinet of its intention to participate, according to a notification schedule set by the secretary of the finance and administration cabinet. Companies providing insurance and health maintenance organization coverage to county employes under this subsection shall collect the premiums and payments for such coverage from each participating county, rather than from any agency of state government.*

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, [~~or~~] agency *or county*; or

(c) Partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board, [~~or~~] agency *or county* for any other insurance coverage shall be paid by the employe.

(5)[~~(4)~~] If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6)[~~(5)~~] No payment of premium by the state or department, board, [~~or~~] agency *or county* shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board, [~~or~~] agency *or county* shall be considered a proper cost of administration.

(7)[~~(6)~~] The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8)[~~(7)~~] The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

(9)[~~(8)~~] The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

Section 2. Whereas contracts for health insurance commonly run from July 1 to June 30, an emergency is declared to exist and this bill shall take effect on July 1, 1986.

Committee Substitute to HB 347 is as follows:

HB 347, AN ACT relating to health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(b) The term "state employe" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. *It shall also include an elected city or county official or a person who is regularly employed by any Kentucky county or city if that county or city elects to offer the insurance and health maintenance organization coverage described in this section.* It shall also include a person who must fulfill the requirements established by the state board of education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) *The government of any Kentucky county or city may participate in the insurance and health maintenance organization coverage offered under this section. The fiscal court of each county and the legislative body of each city which elects to participate shall notify the secretary of the finance and administration cabinet of its intention to participate, according to a notification schedule set by the secretary of the finance and administration cabinet. Companies providing insurance and health maintenance organization coverage to county or city employes under this subsection shall collect the premiums and payments for such coverage from each participating county or city, rather than from any agency of state government.*

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, [~~or~~] agency, *city or county*; or

(c) Partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board, [~~or~~] agency, *city or county* for any other insurance coverage shall be paid by the employe.

(5)[~~(4)~~] If an employe moves his place of residence or employment out of the service area of a health

maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6)[~~(5)~~] No payment of premium by the state or department, board, [~~or~~] agency, *city or county* shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board, [~~or~~] agency, *city or county* shall be considered a proper cost of administration.

(7)[~~(6)~~] The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8)[~~(7)~~] The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

(9)[~~(8)~~] The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

Section 2. Whereas contracts for health insurance commonly run from July 1 to June 30, an emergency is declared to exist and this bill shall take effect on July 1, 1986.

The Committee on Judiciary-Criminal reported HB 39, HB 346 and HB 422 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is $100 or more, in which case it is a Class D felony *and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000), or double his gain from the commission of the offense, or both.*

Section 2. KRS 534.030 is amended to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony and granted a sentence of probation or conditional discharge *shall* [~~may~~] be sentenced to pay a fine in an amount not *less than five hundred dollars ($500) nor more than* [~~to exceed~~] ten thousand dollars ($10,000) or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of such fines shall not exceed ten thousand dollars ($10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) This section does not apply to a corporation.

Section 3. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether or not the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury then the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any misdemeanor for which he has been sentenced to a term of imprisonment and granted a sentence of probation or conditional discharge shall be sentenced to pay a fine in an amount not to exceed the amount established for the appropriate misdemeanor classification as set out in subsection (3) of this section, or double his gain from commission of the offense, whichever is greater.

(3) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony may be sentenced to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars ($500); or

(b) For a Class B misdemeanor, two hundred fifty dollars ($250); or

(c) For a violation, two hundred fifty dollars ($250).

(4)[~~(3)~~] This section does not apply to a corporation.

HB 346, AN ACT relating to the representation of indigents by the Office for Public Advocacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31.100 is amended to read as follows:

With regard to the district public advocate and approved local programs of providing counsel for indigents the following terms and standards shall apply, subject to further definition and regulation by the office for public advocacy.

(1) "Detain" means to have in custody or otherwise deprive of freedom of action;

(2) "Expenses," when used with reference to representation under this chapter, includes the expenses of investigation, other preparation, and trial, together with the expenses of any appeal;

(3) "Needy person" or "indigent person" means*:*

(a) A person, *eighteen (18) years of age or older, or emancipated minor under the age of eighteen (18),* who at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;

(b) A minor, under the age of eighteen (18), who is party defendant in an action brought under KRS 208.020(1)(b), (c) or (d), and at the time his need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation; or

(c) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in KRS 208.020(1)(a), whose custodial parent or guardian at the time the need of the minor is determined is unable to provide for the payment of an attorney and all other necesssary expenses of representation, and who cannot personally so provide.

(4) "Serious crime" includes:

(a) A felony;

(b) A misdemeanor or offense any penalty for which includes the possibility of confinement or a fine of five hundred dollars ($500) or more; [~~and~~]

(c) *Any legal action which could result in the detainment of a defendant ; and*

(d) An act that, but for the age of the person involved, would otherwise be a serious crime.

Section 2. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred no later than his first appearance in court or in a suit for payment or reimbursement under KRS 31.150, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each step in the proceedings, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which said person is entitled to counsel, upon declaration by said person that he is needy under the terms of this chapter. In such event the person involved shall be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter.

(2) In determining whether a person is a needy person and in determining the extent of his, *and, in the case of an unemancipated minor under KRS 31.100(3)(c), his custodial parent's or guardian's* inability to pay, the court concerned shall consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail, or any other method of release provided in KRS Chapter 431, does not necessarily prevent him from being a needy person. In each case, the person, *and, if an unemancipated minor under KRS 31.100(3)(c), his custodial parent or guardian* subject to the penalties for perjury, shall certify by affidavit of indigency compiled by the pre-trial release officer, where practical, as provided under KRS Chapter 431 and supreme court rules or orders promulgated pursuant thereto, such material factors relating to his ability to pay in such form as the supreme court prescribes.

(3) It shall be prima facie evidence that a person is not indigent or needy within the meaning of this chapter if he *and, in the case of an unemancipated minor under KRS 31.100(3)(c), if his custodial parent or guardian*:

(a) Owns real property in the Commonwealth or without the Commonwealth; or

(b) Is not receiving, or if not receiving is not eligible to receive, public assistance payments at the time the affidavit of indigency is executed; or

(c) Has paid money bail (other than a property bond of another), whether deposited by himself or another, to secure his release from confinement on the present charge of which he stands accused or convicted; or

(d) Owns more than one motor vehicle.

(4) To the extent that a person covered by KRS 31.110, *and, in the case of an unemancipated minor under KRS 31.100(3)(c), his custodial parent or guardian,* is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court shall order [~~him to provide for their~~] payment in an amount determined by the court and may order that such payment be made in a lump sum or by installment payments. Such determination shall be made at each stage of the proceedings.

(5) The court shall order all monies collected pursuant to subsection (4) *of this section* [~~above~~] be paid to the clerk of that court pursuant to the schedule of payment. The clerk shall forward to the office for public advocacy on a monthly basis a copy of all such orders and the monies collected pursuant thereto with an accounting as to each case.

(6) The affidavit of indigency, *to be subscribed and sworn to by the person, and, in the case of an unemancipated minor under KRS 31.100(3)(c), by his custodial parent or guardian,* shall be as set out herein:

Commonwealth of Kentucky

County of ________

Affiant ____________, being first duly sworn says that he is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he is indigent and requests the court to appoint counsel.

Affiant states that his income is _______; that he owns the following property:

Description	Value
____________________	____________________
____________________	____________________
____________________	____________________

that he has the following dependents:

Name	Age	Relationship

and that he has the following obligations:

To whom owed	Amount owing

____

Signature of affiant

Subscribed and sworn to before me this ______, day of __________, 19____.

____

Signature and title of oficer
administering the oath

Any persons making false statements in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523, the maximum penalty for which is five years imprisonment.

Section 3. KRS 31.150 is amended to read as follows:

(1) The public advocate, on behalf of the Commonwealth of Kentucky, shall recover where practical payment or reimbursement, as the case may be, from each person or his estate who has received legal assistance or another benefit under this chapter:

(a) To which he was not entitled;

(b) With respect to which he was not a needy person when he received it; or

(c) With respect to which he has failed to make the certification required by KRS 31.120(2);

(d) For funds not paid as ordered pursuant to KRS 31.120(4); and

(e) For which he refuses to pay or reimburse. Suit must be brought within five (5) years after the date on which the aid was received.

(2) The public advocate, on behalf of the Commonwealth of Kentucky, shall recover where practical payment or reimbursement, as the case may be, from each person, other than a person covered by subsection (1) *of this section*, who has received legal assistance under this chapter and who, on the date on which suit is brought, is financially able to pay or reimburse the Commonwealth of Kentucky for it according to the standards of ability to pay applicable under KRS 31.100(3), 31.110(1) and 31.120(2), but refuses to do so. Suit must be brought within five (5) years after the date on which the benefit was received.

(3) Amounts recovered under this section shall be paid into a special account for the office for public advocacy.

(4) Any attorney participating in a public advocacy plan shall forward all information which he may have which indicates that payment or reimbursement may be obtained pursuant to subsections (1) and (2) of this section.

(5) The duty of recovery contemplated by subsections (1) and (2) of this section shall extend against persons who were the custodial parents or guardians of unemancipated minors at the time such minors were deemed needy as defined in KRS 31.100(3)(c).

HB 422, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order.

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail.

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein, including but not limited to dangerous instruments as defined in KRS 500.080, any controlled substances and marijuana, *and saws, files, and similar metal cutting instruments.*

(4) "Detention facility" means any place used for the confinement of a person:

(a) Charged with or convicted of an offense; or

(b) Alleged or found to be delinquent; or

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes.

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that such departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

(6) As used in KRS 520.015 "penitentiary" includes any facility operated by the department of corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the department of corrections.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: HB 373, HB 159, HB 325, HB 351, HB 471, HB 491.

Counties and Special Districts: HB 389.

Business Organizations and Professions: HB 452, HB 489.

Health and Welfare: SB 98, HB 465, HB 57.

Calendar

HB 64, HB 149, HB 366, SB 3, SB 107, HB 3, HB 10, HB 142, HB 334, HB 368, HB 405, HB 445, SB 73 and SB 104 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 181, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of Floor Amendment No. 3 to HB 181. Agreed.

Representative M. Brown moved HB 181, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 3, 1986 roll call on HB 181—Appendix A.)

HB 181, as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 181, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 77, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Committee Amendment No. 1 to HB 77. Agreed.

Representative Riner moved HB 77, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 7. (See February 3, 1986, roll call on HB 77—Appendix A.)

HB 77, as amended, was passed and the title agreed to.

Representative Riner moved that the vote by which HB 77, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that HB 243 be passed.

On the roll call the vote was: Yeas 79, Nays 9. (See February 3, 1986, roll call on HB 243—Appendix A.)

HB 243 was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 243 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 545, by Representatives J. Harper and M. Brown: AN ACT relating to district courts.

HB 546, by Representative Deskins: AN ACT relating to commonwealth's attorneys.

HB 547, by Representative Burnette: AN ACT relating to boars.

HB 548, by Representative Freibert: AN ACT relating to medical assistance.

HB 549, by Representative Curd: AN ACT relating to education.

HB 550, by Representatives Bennett and Gray: AN ACT relating to lobbying.

HB 551, by Representative Donnermeyer: AN ACT relating to alcoholic beverages.

HB 552, by Representative Donnermeyer: AN ACT relating to school term.

HB 553, by Representative Donnermeyer: AN ACT relating to alcoholic beverages.

HR 60, by Representative Burnette: A RESOLUTION relating to agriculture.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: HCR 46.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Labor and Industry: HB 340.

Motions, Petitions and Communications (continued)

Representative Farrow moved that he be recorded as voting "yea" on HB 77. Agreed.

Representative Siler moved that he be recorded as changing his vote from "nay" to "yea" on HCR 7. Agreed.

Representative Morris moved that he be recorded as voting "yea" on HB 41. Agreed.

Representative Moberly moved that he be recorded as voting "yea" on HB 77. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HCR 21 had been examined and found correctly enrolled. HCR 21 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:25 p.m.)

HCR 21 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (Cont'd)

Representative Hines moved to suspend the rules to allow floor privileges and act on a Resolution. Agreed.

Representative Hines moved the adoption of the following HR 59:

HR 59, A RESOLUTION honoring Ms. Nomonde Ngubo and welcoming her to this chamber.

WHEREAS, South African Ms. Nomonde Ngubo is one of the founders of the National Union of Mine Workers in South Africa, and is presently serving as an international representative for the United Mine Workers of America; and

WHEREAS, Ms. Ngubo is organizing that union's campaign against apartheid; and

WHEREAS, Ms. Ngubo is present today to address this chamber;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House extends a gracious welcome to Ms. Ngubo and accords her the privilege of the floor.

Section 2. That a copy of this resolution be presented to Ms. Ngubo.

HR 59 was adopted by voice vote.

Representative Smith moved to suspend the rules to act upon a Resolution. Agreed.

HR 61, by Representative Smith, Richards and M. Brown: A RESOLUTION urging the National Highway Traffic Safety Administration to amend its 1987 and 1988 corporate average fuel economy standards to reflect an appropriate balance between reasonable energy conservation needs and economic and lifestyle consideration of the populace of this country.

Representative Smith moved that HR 61 be passed.

HR 61, A RESOLUTION urging the National Highway Traffic Safety Administration to amend its 1987 and 1988 corporate average fuel economy standards to reflect an appropriate balance between reasonable energy conservation needs and economic and lifestyle consideration of the populace of this country.

WHEREAS, the aftermath of the 1973-74 oil embargo necessitated United States Congressional action regulating automotive fuel economy; and

WHEREAS, authority to administer the program was provided to the National Highway Traffic Safety Administration administrator who has established a 27.5 mile per gallon standard for vehicles in 1985 and each year thereafter; and

WHEREAS, because of various technological problems related to these standards, many manufacturers face a clear and present risk of curtailing production of many model vehicles or pay millions of dollars in penalties for noncompliance; and

WHEREAS, the current Corporate Average Fuel Economy (CAFE) standards do not recognize the current conditions relating to oil prices and availability, strides made by manufacturers to raise fuel economy standards to current levels, or the public's need for larger vehicles such as station wagons or other such vehicles which permit towing of trailers, boats or campers; and

WHEREAS, it is readily apparent that the outdated CAFE standards could cause the curtailing of production by domestic manufacturers, in areas where they had traditionally held a great market advantage, and will also have far-reaching negative impacts on these companies, their employes, suppliers and the general economic health of the nation; and

WHEREAS, it is of paramount importance that the nation's interest in energy and jobs be balanced to promote not only conservation and economic needs but to continue to promote the freedoms which the people of this country do now enjoy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Administrator of the National Highway and Traffic Safety Administration be urged to preserve consumer choice and promote economic growth and protect jobs while maintaining a reasonable approach to energy conservation needs by amending 1987 and 1988 passenger automobile CAFE standards to a level of 26.0 miles per gallon and to continue to establish light truck fuel economy standards in a manner that reflects an appropriate balance between reasonable energy needs and jobs.

Section 2. That a copy of this resolution be transmitted to the Secretary of the United States Department of Transportation, Administrator of the National Highway Traffic Safety Administration, and members of the Kentucky Congressional delegation.

HR 61 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 390, HB 473; Representative Brinkley, HB 10; Representative Burch, HB 280, HB 522; Representative Clapp, HB 473; Representative P. Clark, HB 142; Representative Cyrus, HJR 58, HB 530, HB 531; Representative Donnermeyer, HB 473; Representative J. Harper, HB 87, HB 390, HB 428; Representative K. Harper, HB 522; Representative Head, HB 19; Representative Holbrook, HB 127; Representative R. Jones, HB 117; Representative Lear, HB 8, HB 390; Representative Lile, HB 473; Representative Maggard, HB 53; Representative McBee, HB 522; Representative McNutt, HB 315; Representative Meyer, HB 53; Representative Napier, HB 473; Representative O'Brien, HB 473; Representative Pearman, HB 53, HB 348; Representative Reinhardt, HB 413; Representative Seum, HB 245; Representative Siler, HB 473; Representative Smith, HB 473.

The following members filed a request to have their names withdrawn as a co-sponsor: Representative P. Clark, HB 465; Representative Reinhardt, HB 433; Representative White, HB 465.

Motions, Petitions and Communications (Cont'd)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 315, by Representative P. Richardson:

Amend printed copy of HB 315:

on page 4, line 12, after the word "*cover*" and before the word "*any*" to delete the following:

"*any portion of the plate or*"

Floor Amendment No. 2 to HB 315, by Representative Morris:

Amend printed copy of HB 315:

page 4, line 12, after the word "*obscure*" delete the following:

"*or cover any portion of the plate or*"

Announcements

Education: Budget Review, 7 p.m. today.

Labor: Cancelled 8 a.m. February 4, 1986. Meet on adjournment, February 4, 1986, Room 104.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m., Tuesday, February 4, 1986.

On the roll call the vote was yeas 79—Allen, Arnold, Bendl, Bennett, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 6—Blevins, Deskins, Holbrook, Lile, Overstreet, Williams.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 4, 1986

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Barrows.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 3, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 554, by Representative Clapp: AN ACT relating to public assistance.

HB 555, by Representatives Clarke and K. Harper: AN ACT relating to fees charged by the secretary of state.

HB 556, by Representatives Hines and Moberly: AN ACT relating to affirmative action in governmental contracting.

HB 557, by Representative Hines: AN ACT relating to cities of the first class.

HB 558, by Representative White: AN ACT relating to the state treasury.

HB 559, by Representative Seum: AN ACT relating to criminal records.

HB 560, by Representative Seum: AN ACT relating to domestic relations.

HB 561, by Representatives Cyrus, F. Brown and Cline: AN ACT relating to sheriffs, and declaring an emergency.

HB 562, by Representative Scorsone: AN ACT relating to domestic violence and abuse.

HB 563, by Representatives Blevins, B. Richardson, Cline, F. Brown, Preston and M. Brown: AN ACT relating to motor vehicle registration fees.

HB 564, by Representative Riner: AN ACT relating to motor vehicle insurance.

HB 565, by Representatives Brinkley and Stone: AN ACT relating to surface coal mining.

HB 566, by Representatives Crupper, Farrow, P. Richardson, Rapier, Long, Gedling, L. Clark, P. Clark, Kerr, Turner, Todd, Napier and Lyne: AN ACT relating to real estate.

HB 567, by Representative Stumbo: AN ACT relating to reorganization.

HB 568, by Representatives Bronger, Burch, Mann, McBee, Riner, Johnson, Noe, Thomas and Rose: AN ACT relating to anatomical gifts.

HB 569, by Representative Bronger: AN ACT relating to sales and use tax.

HB 570, by Representatives Long, R. Jones, P. Clark, Crupper, P. Richardson, Farrow, McNutt, Ellington, Mack, Bendl, Donnermeyer, Mann, Kerr, LeMaster, Lear, Gedling, Clarke, Cowan, Holbrook, Johnson, Freibert, Lile, Stewart, Caldwell, K. Harper, Arnold, M. Brown, Deskins, Smith, B. Richardson, Turner, Richards, Holloway, Pritchett, Preston, Reinhardt, Seum, Priddy, Nett, Burch, O'Brien, Bronger, Hines, Heleringer, Guenthner, Yates, Riner, Bennett, Blandford and Scorsone: AN ACT relating to the school facilities construction commission.

HB 571, by Representatives Arnold and Gedling: AN ACT relating to county treasurers.

HB 572, by Representative O'Brien: AN ACT relating to state government.

HB 573, by Representative Overstreet: AN ACT relating to boards of education.

HB 574, by Representative Cowan: AN ACT relating to unlawful taking.

HCR 62, by Representative R. Jones: A CONCURRENT RESOLUTION directing a study of the composition of the judicial circuits of Kentucky.

HR 63, by Representatives Curd and Ford: A RESOLUTION honoring Mark Overbay and Amy Wood.

HR 64, by Representatives Bruce and Morris: A RESOLUTION condemning the United States Air Force for awarding a new contract to Arrow Air, Incorporated.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 547.

Banking and Insurance: HB 539, HB 544.

Business Organizations and Professions: HB 551, HB 553.

Counties and Special Districts: HB 537.

Education: HB 549, HB 552.

Health and Welfare: HB 535, HB 542, HB 548, HB 541.

Judiciary-Civil: HB 536, HB 538, HB 540, HB 543, HB 545.

Judiciary-Criminal: HB 534.

Labor and Industry: HB 550.

State Government: HB 546.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: HB 117, HB 513.

Health and Welfare: HB 472, HB 474, HB 469, HB 323, HB 500.

Senate Message

Announcing passage of SB 70, SB 128, SB 153, HB 63, HB 68, HB 116, HB 127 and HB 189.

Report of Committees

The Committee on Rules reported HB 3, HB 10, HB 64, HB 142, HB 334, HB 366, HB 368, HB 405, SB 73, HB 293, HB 333, HB 434 and HB 304 have been posted for passage in Orders of the Day, February 5, 1986.

The Committee on Banking and Insurance reported HB 296 and HB 367 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 296, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any public housing authority created pursuant to KRS Chapter 80 may self-insure, subject to approval of the commissioner by filing with the commissioner in satisfactory form:

(1) A continuing undertaking by the owner or other appropriate person to pay tort liabilities;

(2) Evidence that appropriate provision exists for prompt and efficient administration of all claims; and

(3) Evidence that reliable financial arrangements, deposits, or commitments exist providing coverage substantially equivalent to that afforded by a policy of insurance for payment of claims against a public housing authority.

Section 2. KRS 304.12-210 is amended to read as follows:

(1) No insurer or any person on behalf of any insurer shall make, offer to make, or permit any preference or distinction in property, marine, casualty or surety insurance as to form of policy, certificate, premium rate, benefits, preferred distribution of profits or dividends, or conditions of insurance, on a group basis, based upon membership, nonmembership, employment, or of any person or persons by or in any particular group, association, corporation, or organization, or employes of any particular employer, and shall not make the foregoing preference or distinction available in any event based upon any fictitious grouping of persons as defined in this code, such fictitious grouping being hereby defined and declared to be any grouping by way of membership, nonmembership, license, franchise, employment, contract agreement or any other method or means, except, where under common majority ownership and the same direct operating management.

(2) The restrictions and limitations of this section shall not extend or apply to automobile, life, health, accident or disability insurance, or where those grouped are engaged in a joint venture or a common construction or demolition project *or to liability, property and surety insurance for public housing authorities created pursuant to KRS Chapter 80.*

(3) Nothing in this section shall apply to any company which confines its direct insurance business to this state and to the providing of insurance for the benefit of its members, or members of its parent or sponsoring organization, providing such company was in existence and confining its insurance business and operations in such manner prior to January 1, 1968.

HB 367, AN ACT relating to insurance of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-100 is amended to read as follows:

(1) An insurance contract which purports to provide coverage for basic reparation benefits or is sold with representation that it provides security covering a motor vehicle has the legal effect of including all coverages required by this subtitle.

(2) *Every motor vehicle liability insurance policy insuring a motor vehicle licensed in this state shall extend its liability coverage to include any other motor vehicle operated by the insured individual if the other motor*

vehicle is loaned, with or without consideration, to the insured individual for demonstration purposes or as a replacement vehicle while the insured's vehicle is out of use because of breakdown, repair, or servicing and if the other motor vehicle is loaned by a person, firm or corporation engaged in the business of selling, repairing, or servicing motor vehicles. Such extension of liability coverage shall include coverage for damage to or loss of the loaned vehicle.

(3) An insurer authorized to transact or transacting business in this Commonwealth shall file with the commissioner of insurance as a condition of its continued transaction of business within this Commonwealth a form approved by the commissioner of insurance declaring that in any contract of liability insurance for injury, wherever issued, covering the ownership, maintenance or use of a motor vehicle other than motorcycles while the vehicle is in this Commonwealth shall be deemed to provide the basic reparation benefits coverage and minimum security for tort liabilities required by this subtitle, except a contract which provides coverage only for liability in excess of required minimum tort liability coverage. Any nonadmitted insurer may file such form.

The Committee on Education reported HB 455, HB 462, with Committee Amendment No. 1 attached thereto and HCR 40 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 455, AN ACT relating to community colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.591 is amended to read as follows:

A community college shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson, Hopkinsville, Madisonville, *Owensboro,* Prestonsburg, Somerset, Blackey-Hazard, Jefferson County and Mason County.

HB 462, AN ACT relating to univerity boards of regents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) *Effective with the first vacancy after the effective date of this Act, each board shall include one (1) member who is an alumnus of that university selected from a list of three (3) names submitted by the alumni of the university in such manner and according to rules prescribed by the board of regents;* not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

The Committee Amendment No. 1 to HB 462 is as follows:

Amend printed copy of HB 462:

On page 2, line 4, after the word "*first*" insert "*gubernatorially appointed*"

HCR 40, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to conduct a study of long-term health care and in-home services for retired teachers.

WHEREAS, the 1987 population of Kentuckians ages 65 and over is projected to exceed 500,000 by 1990, an increase of nearly 100,000 persons since 1980; and

WHEREAS, many of these older Kentuckians will be retired teachers; and

WHEREAS, the availability of and payment for long-term health care and in-home services will be growing concerns for our retired teachers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Interim Joint Committee on Education is directed to conduct a study of long-term health care and in-home services for retired teachers to include the following:

(1) An overview of the current and projected problems associated with long-term health care and in-home services for retired teachers including the availability of and payment for such services;

(2) A review of other states to determine what efforts have been made in this area for retired teachers; and

(3) An examination of alternatives for providing assistance to retired teachers in obtaining these services and the associated costs.

Section 2. This report shall be made to the Legislative Research Commission no later than November 1, 1987.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitation and other research responsibilities of the Commission.

Calendar

HB 347, HB 39, HB 346 and HB 422 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved to suspend the rules to act on a Citation and grant floor privileges. Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 21. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the four FORT THOMAS CITY INDEPENDENT SCHOOLS, for receiving the Flags of Excellence for 1984 and 1985, presented by the Kentucky Educational Foundation. You are to be commended in that you were the only Kentucky local school district in which all its schools received this honor. We salute the HIGHLANDS HIGH SCHOOL, as one of two High Schools in Kentucky to be recognized in the Secondary School Recognition Program sponsored by the United States Department of Education. Your accomplishments and achievements noted personal acknowledgement from President Ronald Reagan and Secretary of Education, William J. Bennett, as they presented the Flag of Excellence in a ceremony at the White House. Your dedication and commitment to the high standards of education have bestowed great honor and pride on your community and the Commonwealth of Kentucky.

This prestigious body applauds the students, parents, schools, teachers, administrators and the Fort Thomas Board of Education for your hard work and leadership. (Sponsored by Representative Reinhardt)

Representative Donnermeyer moved the adoption of Legislative Citation No. 21 by roll call.

On the roll call the vote was yeas 94—Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Williams, Worthington, Yates. Nays 0.

Legislative Citation No. 21 was adopted.

HB 148 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that HB 148 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 4, 1986, roll call on HB 148—Appendix A.)

HB 148 was passed and the title agreed to.

Representative Gedling moved that the vote by which HB 148 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 182, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stewart moved the adoption of the Committee Amendment No. 1 to HB 182. Agreed.

Representative Stewart moved that HB 182, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 4, 1986, roll call on HB 182—Appendix A.)

HB 182, as amended, was passed and the title agreed to.

Representative Stewart moved that the vote by which HB 182, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 198 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that HB 198 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 4, 1986, roll call on HB 198—Appendix A.)

HB 198 was passed and the title agreed to.

Representative T. Jones moved that the vote by which HB 198 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 277, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Amendment No. 1 to HB 277. Agreed.

Representative Heleringer moved that HB 277, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See February 4, 1986, roll call on HB 277—Appendix A.)

HB 277, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which HB 277, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Amendment No. 1 to HB 315. Agreed.

Representative P. Richardson moved the adoption of the Floor Amendment No. 1 to HB 315. Agreed.

Representative McElroy moved that HB 315, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 4, 1986, roll call on HB 315—Appendix A.)

HB 315, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which HB 315, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 332, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Amendment No. 1 to HB 332. Agreed.

Representative Holbrook moved that HB 332, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 4, 1986, roll call on HB 332—Appendix A.)

HB 332, as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which HB 332, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 356 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that HB 356 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 4, 1986, roll call on HB 356—Appendix A.)

HB 356 was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 356 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 383 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that HB 383 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 4, 1986, roll call on HB 383—Appendix A.)

HB 383 was passed and the title agreed to.

Representative Scorsone moved that the vote by which HB 383 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Smith moved that HB 460 be passed.

On the roll call the vote was: Yeas 78, Nays 9. (See February 4, 1986, roll call on HB 460—Appendix A.)

HB 460 was passed and the title agreed to.

Representative Smith moved that the vote by which HB 460 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 575, by Representative Seum: AN ACT relating to motor vehicles.

HB 576, by Representatives Kerr and Reinhardt: AN ACT relating to motor vehicle taxation.

HB 577, by Representatives Kerr and Reinhardt: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 578, by Representatives Kerr, Reinhardt, Meyer and Napier: AN ACT relating to motor vehicle taxation.

HB 579, by Representative Curd: AN ACT relating to certification of school employes.

HB 580, by Representative Ellington: AN ACT relating to the transportation cabinet.

HB 581, by Representative Burnette: AN ACT relating to hazardous duty pay.

HB 582, by Representative Meyer: AN ACT relating to landlords and tenants.

HB 583, by Representatives P. Clark, Bronger, Donnermeyer, McBee and Mann: AN ACT relating to police officers.

HB 584, by Representative Worthington: AN ACT relating to death certificates.

HCR 65, by Representative Worthington: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment for submission to the states, to require that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose for proposing such an amendment for submission to the states.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: HB 488, HB 431, HB 211, HB 305, HB 12.

State Government: HB 382, HB 283, HB 399, HB 50, HB 128, HB 497, SB 29, SB 2.

Agriculture and Small Business: HB 421, HB 547, HCR 20.

Judiciary-Civil: HB 138, HB 483, HB 251.

Report of Committees

The Committee on Transportation reported SB 16 and HB 326, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 16, AN ACT relating to relocation assistance payments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

The transportation cabinet shall adopt such administrative regulations and procedures consistent with the provisions of KRS 56.610 to 56.760 as it deems necessary or appropriate to carry out the provisions of KRS 56.610 to 56.760 with regard to requirements of the department of highways as provided for in KRS Chapters 175, 176, 177 and 180.

Section 2. KRS 56.690 is amended to read as follows:

(1) *Except as provided in subsection (3) of this section* the finance and administration cabinet shall adopt such rules and regulations as may be necessary to assure:

(a) That the payments and assistance authorized by KRS 56.610 to 56.760 shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for such person by KRS 56.610 to 56.760 shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) That any person aggrieved by a determination as to eligibility for a payment authorized by KRS 56.610 to 56.760 or the amount of a payment, may have his application reviewed by the head of the state agency.

(2) The finance and administration cabinet may prescribe such other regulations and procedures, consistent with the provisions of KRS 56.610 to 56.760, as it deems necessary or appropriate to carry out KRS 56.610 to 56.760.

(3) The transportation cabinet shall adopt such administrative regulations and procedures consistent with the

provisions of KRS 56.610 to 56.760, as it deems necessary or appropriate to carry out the provisions of KRS 56.610 to 56.760 with regard to requirements of the transportation cabinet.

HB 326, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.180 is amended to read as follows:

(1) [~~(a)~~] If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by filing an affidavit, upon a form furnished by the cabinet, and he shall pay to the clerk a fee of two dollars ($2.00).

[~~(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued such receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk before a duplicate may be issued therefor. The owner shall pay the clerk a fee of two dollars ($2.00).~~

~~(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt, must be omitted from the duplicate receipt to be issued by the clerk.~~]

(2) If the owner loses a registration plate he shall surrender his registration receipt to the county clerk from whom it was obtained and file therewith a written statement as to the loss of the plate. Upon the payment of the sum of two dollars ($2.00) for each plate and a fee of two dollars ($2.00) to the clerk for his services *and payment of all ad valorem taxes due pursuant to KRS 138.810,* the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and shall make a notation on the triplicate copy of the surrendered registration receipt, stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the department of state police. Any person finding a lost registration plate shall deliver it to the transportation cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. The clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the transportation cabinet. The fee for such registration shall be four dollars ($4.00) of which the clerk shall be entitled to two dollars ($2.00) and the cabinet shall be entitled to two dollars ($2.00).

Section 2. KRS 186.190 is amended to read as follows:

(1) *(a) Effective January 1, 1988, all motor vehicle registration plates shall remain with the owner of said plate and be placed upon a motor vehicle titled to that owner as provided herein. In the event, for any reason, the registration plate referred to herein is not placed upon a vehicle titled to the owner within a period of thirty (30) days, the registration plate shall be returned to the clerk of the county in which the registration plate was issued or the owner thereof resides.*

(b) Where the owner of the registration plate is the lessor of the motor vehicle upon which that registration plate is placed, the ad valorem taxes due upon the motor vehicle the registration plate was on as of January 1 of each calendar year shall be paid to and collected by the county clerk of the county in which the owner of the registration plate resides.

(2) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain *with the owner obtaining such registration* upon such motor vehicle as a part of it until the expiration of the registration year.

(3)[~~(2)~~] No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the

county in which the sale or trade is made the current *title* [~~registration receipt~~] issued on the motor vehicle and *the vehicle transaction record* [~~the bill of sale. Any unexpired registration shall remain valid upon transfer of said vehicle to the new owner~~].

(4)[~~(3)~~] Upon delivery of the *title* [~~registration receipt~~] and the *vehicle transaction record* [~~bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address, *and the purchaser's registration plate number.* The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) [~~Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.~~

~~(5)~~] *Within thirty (30) days after* [~~If~~] the owner junks or otherwise renders a motor vehicle unfit for future use, *or fails to purchase another motor vehicle,* he shall deliver the registration plate and registration receipt *and shall pay any ad valorem taxes due and not yet paid* to the county clerk of the county in which the motor vehicle *was last registered* [~~is junked~~]. The county clerk shall immediately return the plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty (50) cents for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

Section 3. KRS 186.193 is amended to read as follows:

The county clerk shall not transfer the *title* registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

Section 4. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered *or titled*:

(a) When he collects the registration *or title* fee for registering *or titling* [~~and licensing~~] a motor vehicle the first time it is offered for registration *or titling* in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered *or titled* in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the revenue cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, or transfer the ownership of any motor vehicle previously registered *or titled* in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, *title* and license fees.

(5) When a resident of this state offers a motor vehicle for *either* registration *or title* for the first time in this state which was registered *or titled* in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal

to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and *certificate of title* ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4), in no case shall the tax be less than five dollars ($5.00) upon first registration, *titling* of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the of revenue cabinet as a result of the registration *or titling* of the returned vehicle. In the case of a new motor vehicle, the registration *or titling* of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered *or titled* in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the first registration *or titling*. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the registration *or titling*. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet an affidavit from the dealer or manufacturer identifying the vehicle that was replaced.

SECTION 5. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

The finance and administration cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of this Act and, further, shall reimburse each state agency involved for all on-going operational costs incurred by each such agency in administering the provisions of this Act.

Section 6. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government *or motor vehicles which are titled under KRS 186A.070* when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has filed a financing statement as required by KRS 186.045(2) and a repossession affidavit as required by KRS 186.045(6). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle;

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

Section 7. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, [~~186.180,~~] 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, *186.180,* 186.190, or 186.200 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less

than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who transports coal in violation of any provision of KRS 186.057 shall be fined not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500) for each offense.

Section 8. The following KRS section is repealed:

186.232 Registration not transferable until taxes paid and lien released.

The Committee Substitute to HB 326 is as follows:

HB 326, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.180 is amended to read as follows:

(1) [~~(a)~~] If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by filing an affidavit, upon a form furnished by the cabinet, and he shall pay to the clerk a fee of two dollars ($2.00).

[~~(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued such receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk before a duplicate may be issued therefor. The owner shall pay the clerk a fee of two dollars ($2.00).~~

~~(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt, must be omitted from the duplicate receipt to be issued by the clerk.~~]

(2) If the owner loses a registration plate he shall surrender his registration receipt to the county clerk from whom it was obtained and file therewith a written statement as to the loss of the plate. Upon the payment of the sum of two dollars ($2.00) for each plate and a fee of two dollars ($2.00) to the clerk for his services *and payment of all ad valorem taxes due pursuant to KRS 138.810,* the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and shall make a notation on the triplicate copy of the surrendered registration receipt, stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the department of state police. Any person finding a lost registration plate shall deliver it to the transportation cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. The clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the transportation cabinet. The fee for such registration shall be four dollars ($4.00) of which the clerk shall be entitled to two dollars ($2.00) and the cabinet shall be entitled to two dollars ($2.00).

Section 2. KRS 186.190 is amended to read as follows:

(1) *(a) Effective January 1, 1988, the registration plates upon all motor vehicles registered pursuant to KRS 186.050(1) and (3)(a) shall remain with the owner of said plate and be placed upon a motor vehicle titled to that owner as provided herein. In the event, for any reason, the registration plate referred to herein is not placed upon a vehicle titled to the owner within a period of thirty (30) days, the registration plate shall be returned to the clerk of the county in which the registration plate was issued or the owner thereof resides.*

(b) Where the owner of the registration plate is the lessor of the motor vehicle upon which that registration plate is placed, the ad valorem taxes due upon the motor vehicle the registration plate was on as of January 1 of each calendar year shall be paid to and collected by the county clerk of the county in which the owner of the registration plate resides.

(2) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain *with the owner obtaining such registration* [~~upon such motor vehicle as a part of it until the expiration of the registration year~~]. *All special and personalized plates authorized by this chapter to the contrary notwithstanding shall remain with the owner thereof and placed upon the motor vehicle owned or leased by the owner.*

(3)[~~(2)~~] No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current *title* [~~registration receipt~~] issued on the motor vehicle and *the vehicle transaction record* [~~the bill of sale. Any unexpired registration shall remain valid upon transfer of said vehicle to the new owner~~].

(4)[~~(3)~~] Upon delivery of the *title* [~~registration receipt~~] and the *vehicle transaction record* [~~bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall *upon request* [~~thereupon~~] issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address*, and the purchaser's registration plate number.* The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) [~~Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.~~

~~(5)~~] *Within thirty (30) days after* [~~If~~] the owner junks or otherwise renders a motor vehicle unfit for future use, *or fails to purchase another motor vehicle,* he shall deliver the registration plate and registration receipt *and shall pay any ad valorem taxes due and not yet paid* to the county clerk of the county in which the motor vehicle *was last registered* [~~is junked~~]. The county clerk shall immediately return the plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty (50) cents for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

Section 3. KRS 186.193 is amended to read as follows:

The county clerk shall not transfer the *title* [~~registration~~] on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

Section 4. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered *or titled*:

(a) When he collects the registration *or title* fee for registering *or titling* [~~and licensing~~] a motor vehicle the first time it is offered for registration *or titling* in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered *or titled* in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the revenue cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk

shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, or transfer the ownership of any motor vehicle previously registered *or titled* in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, *title* and license fees.

(5) When a resident of this state offers a motor vehicle for *either* registration *or title* for the first time in this state which was registered *or titled* in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and *certificate of title* [~~ownership~~] mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4), in no case shall the tax be less than five dollars ($5.00) upon first registration, *titling* [~~of~~] or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the of revenue cabinet as a result of the registration *or titling* of the returned vehicle. In the case of a new motor vehicle, the registration *or titling* of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered *or titled* in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the first registration *or titling*. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the revenue cabinet as a result of the registration *or titling*. No person shall be entitled to a refund unless he shall have filed with the revenue cabinet an affidavit from the dealer or manufacturer identifying the vehicle that was replaced.

SECTION 5. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

The finance and administration cabinet shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of this Act and, further, shall reimburse each state agency involved for all on-going operational costs incurred by each such agency in administering the provisions of this Act.

Section 6. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government *or motor vehicles which are titled under KRS 186A.070* when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has filed a financing statement as required by KRS 186.045(2) and a repossession affidavit as required by KRS 186.045(6). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle;

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

Section 7. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, [~~186.180,~~] 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, *186.180,* 186.190, or 186.200 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who transports coal in violation of any provision of KRS 186.057 shall be fined not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500) for each offense.

Section 8. The following KRS section is repealed:

186.232 Registration not transferable until taxes paid and lien released.

The Committee on Judiciary-Civil reported HB 480 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 480, AN ACT relating to juries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) *"Box" means the receptacle in which are placed the cards with identifying numbers representing the names of those assigned to a jury panel, from which a grand jury or petit jury shall be chosen.*

(2) "Court" means a circuit or district court of this Commonwealth and includes any judge of these courts.

(3) "Identifying number" means the number assigned by the clerk to each name in the jury panel.

(4) "Jury panel" means the group of prospective jurors who are summoned to appear on a stated day and from which a grand jury or petit jury will be chosen.

(5) "Jury period" and "jury period of service" mean the time period for which a group of persons is summoned to jury service.

(6)[~~(2)~~] "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.

(7)[~~(3)~~] "Name" includes an identifying number.

Section 2. KRS 29A.030 is amended to read as follows:

(1) *Except as provided in Section 4 of this Act,* the chief circuit judge for each county shall, not later than the first week of October of each year, appoint three (3) jury commissioners for the county to prepare a list of prospective jurors for the following year.

(2) Each jury commissioner shall be a citizen of the United States, eighteen (18) years of age or older and a resident of the county, and shall not be a party to any action pending in the Court of Justice, nor shall he hold any other public office or office in a political party.

(3) The compensation of the jury commissioners appointed under this section shall be twenty-five dollars ($25) for each day of ordered service. Each jury commissioner shall, in addition, be reimbursed for his actual and necessary expenses incurred in the performance of his duties under this chapter.

(4) Each jury commissioner shall serve for a term of one year and may not succeed himself.

(5) The duties of the jury commissioners shall be to:

(a) Cause the master jury list to be compiled;

(b) Select names of prospective jurors from the master jury list, cause them to be placed in clear plastic capsules, and cause the capsules to be placed in the jury wheel;

(c) Deliver the wheel containing the names of prospective jurors to the circuit clerk; and

(d) Deliver the key to the wheel to the chief circuit judge or another judge designated by him.

(6) The jury *commissioners shall be sworn to the faithful performance of their duties. They* [~~commission~~] shall meet at such times and places as may be designated by the chief circuit judge.

(7) The meetings of the jury commissioners will not be open to the public.

(8) If a commissioner cannot complete his service, the chief circuit judge may appoint a person of like qualifications in his place.

Section 3. KRS 29A.050 is amended to read as follows:

(1) The jury commission for each county shall consult the master list and select the names of prospective jurors for the following year.

(2) No person shall solicit any jury commissioner, directly or indirectly, to select his name for prospective jury service.

(3) *The court shall provide the jury commission with a list of those persons who rendered jury service during the preceding year. Before depositing any name in the jury wheel, the jury commission shall determine that that person did not serve during the preceding year.*

(4) In counties with a population of twenty thousand (20,000) or more, the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is one thousand (1,000) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than one thousand (1,000) prospective jurors on the master list, the jury commission shall place in the wheel one thousand (1,000) plus not less than two percent (2%) of the total number of names on the master list.

(5)[~~(4)~~] In counties with a population of less than twenty thousand (20,000), the jury commission shall place the names or identifying numbers of prospective jurors in a jury wheel as follows:

(a) If the total number of prospective jurors on the master list is five hundred (500) or less, the names or identifying numbers of all of them shall be placed in the jury wheel.

(b) If there are more than five hundred (500) prospective jurors on the master list, the jury commission shall place in the wheel five hundred (500) plus not less than two percent (2%) of the total number of names on the master list.

(6)[~~(5)~~] If it appears to the chief circuit judge that the names in the jury wheel will be exhausted prior to the end of the year, he shall reconvene the commissioners. They shall select and place in the jury wheel as many additional names as may be required by the order of the chief circuit judge.

(7)[~~(6)~~] The jury commission shall lock the jury wheel containing the names of the prospective jurors and deliver the wheel into the custody of the circuit clerk of the county by November 15 of each year. The jury commission shall deliver the key to the wheel into the custody of the chief circuit judge of the county or other judge designated by him.

(8)[~~(7)~~] The jury commission may use the names or identifying numbers of prospective jurors in carrying out its duties under this section.

(9)[~~(8)~~] The jury commission may use an electronic or mechanical system or device in carrying out its duties under this section.

(10) The jury commission may employ a typist, who shall be compensated and classified according to the judicial personnel system.

(11) The expenses of the jury commissioners, including staff support, shall be paid by the finance and administration cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

(1) At the option of the chief circuit judge of the county, and with the approval of the chief justice, the selection of names of prospective jurors may be accomplished by computer, using the computer in the secretary of state's office in Frankfort or any state or locally maintained computer which contains a list of the registered voters of the county. Such a computerized list of prospective jurors may be made on an annual, semi-annual or monthly basis.

(2) If this option is chosen, necessary fees and expenses for computer use shall be paid by the court of justice.

(3) If a randomized list of names is provided by computer, jury commissioners shall not be appointed.

Section 5. KRS 29A.060 is amended to read as follows:

(1) *Before commencement of a jury period of service, each circuit and district judge shall inform the chief circuit judge or his designee of his needs for qualified jurors for the next jury period. If any judge anticipates the need for a larger panel than is usually provided, because of the particular nature of notoriety of a pending case, he shall so inform the chief circuit judge* [~~Each circuit or district judge shall inform the chief circuit judge or his designee of his needs for qualified jurors~~].

(2) *The chief circuit judge or his designee shall thereupon draw from the jury wheel as many names as he deems necessary for the impaneling of the number of jurors required. If such drawing is done by the clerk, it shall be done in the presence of the chief circuit judge or of his designee.*

(3) To select a grand jury or a petit jury in circuit court, the clerk shall:

(a) *Assign thirty-two (32) jurors selected in rotation or at random to the court* [~~Draw thirty-two (32) names at random from the jury wheel~~];

(b) List the names, in the order drawn, from one (1) to thirty-two (32);

(c) Place thirty-two (32) numbered balls *or cards,* in a box and shake the box;

(d) Draw the required number of balls *or cards,* dependent on the number of jurors required plus alternates, from the box and record the number of each ball *or card,* as it is drawn.

(4)[~~(3)~~] To select a petit jury for a trial in district court, the clerk shall:

(a) *Assign sixteen (16) jurors selected in rotation or at random to the court* [~~Draw sixteen (16) names at random from the jury wheel~~];

(b) List the names, in the order drawn, from one (1) to sixteen (16);

(c) Place sixteen (16) numbered balls *or cards* in a box and shake the box;

(d) Draw the required number of balls *or cards*, dependent on the number of jurors required plus alternates, from the box and record the number of each ball *or card* as it is drawn.

(5)[~~(4)~~] The names corresponding to the numbers on the balls *or cards* which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last *number or numbers* [~~ball or balls~~] drawn, as the case may be, will represent the alternate jurors.

(6)[~~(5)~~] As jurors are excused and new jurors are required additional balls *or cards* shall be drawn from the box, one for each juror required, until all of the balls *or cards* in the box have been exhausted.

(7)[~~(6)~~] In the event that all of the balls *or cards* in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.

(8)[~~(7)~~] The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts *and may assign identifying numbers to be used instead of names in notifying jurors whether to report each day. The chief circuit judge may cause daily service to be rotated equitably among jurors during the period of jury service.* Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other branch or division of circuit or district court when jurors are needed.

(9)[~~(8) If a grand, petit, or other jury is ordered to be drawn,~~] The chief circuit judge or his designee [~~thereafter~~] shall cause each person drawn *from the jury wheel* for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by first class mail, addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(10) Jurors who are not selected for a jury shall be directed to report to the clerk's office (or other central location) to receive another assignment or be dismissed for the day. In those counties using a telephone answering service for daily messages to jurors, all jurors should be reminded to continue to call the telephone answering service for further assignments.

(11)[~~(9)~~] The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days shall be personally served by the sheriff.

(12)[~~(10)~~] When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may cause additional names to be drawn. The persons so chosen shall be summoned as provided in this section, but need not be given the notice provided in subsection *(9)* [~~(8)~~] of this section.

(13)[~~(11)~~] *Except as provided in subsection (12) of this section,* only persons duly qualified and summoned under subsection *(9)* [~~(8)~~] of this section and KRS 29A.070 shall serve as jurors.

(14)[~~(12)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. *If the judge is satisfied that impartial jurors cannot be found in an adjacent county, he may order jurors to be selected from the next most convenient county.* The judge shall request the chief circuit judge for the [~~adjoining~~] county *so chosen* to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection *(9)* [~~(8)~~] of this section.

(15)[~~(13)~~] The names of jurors drawn from the jury wheel shall be made available to the public.

Section 6. KRS 29A.070 is amended to read as follows:

(1) The chief circuit judge shall cause to be mailed or delivered with the summons to each juror a juror qualification form accompanied by instructions to fill out and return the form by mail or hand delivery to the clerk within five (5) days after its receipt, or to be completed as otherwise directed. The juror qualification form shall be provided by the administrative office of the courts and subject to approval by the Chief Justice of the Supreme Court.

(2) The juror qualification form shall contain the prospective juror's signed declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished by a fine or by imprisonment, or both. Notarization of the juror qualification form shall not be required.

(3) If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor.

(4) Any prospective juror who fails to return a properly completed juror qualification form as instructed may be directed by the chief circuit judge to appear forthwith to fill out a juror qualification form. *A prospective juror who fails to appear as directed by the judge pursuant to this subsection shall be ordered to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the judge's order or fails to show good cause for his failure to appear as directed by the judge, he may be punished for contempt* [~~At the time of his appearance for jury service, any prospective juror may be questioned by the judge or his designee, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired shall be noted on the juror qualification form~~].

(5) *On the first day that prospective jurors appear in response to the summons, any prospective juror may be questioned by the judge or his designee, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired shall be noted on the juror qualification form* [~~A prospective juror who fails to appear as directed by the judge pursuant to subsection (4) of this section shall be ordered to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the judge's order or fails to show good cause for his failure to appear as directed by the judge, he may be punished for contempt~~].

(6) No person shall willfully misrepresent a material fact on a juror qualification form.

(7) The contents of juror qualification forms shall be made available to parties or their attorneys of record unless the *chief circuit judge or his designee* [~~court~~] determines in any instance in the interest of justice that this information shall be kept confidential or its use limited in whole or in part.

Section 7. KRS 29A.100 is amended to read as follows:

(1) *On the day on which the prospective jurors are summoned to appear, any person not previously excused who desires to be excused shall be heard in a bench conference if he so desires. Other persons may be heard in open court or in a bench conference at the discretion of the court.*

(2) Upon the request of a prospective juror prior to his assignment to a trial court, the chief circuit judge, or after his assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity.

(3)[~~(2)~~] In his discretion the judge may excuse a juror from service entirely or may postpone the juror's service temporarily. Whenever possible the judge shall favor temporary postponement of service over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and his reasons for granting the excuse.

(4) At the option of the judges in the county, all prospective jurors who qualify and are not excused may be assigned identifying numbers to be used instead of names in calling jurors to report each day. The same numbers may be used in selecting a grand jury or petit jury from a jury panel under the provisions of KRS 29A.060.

(5) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts. Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other division of circuit or district court when jurors are needed.

(6) When possible, trials shall be scheduled for the day on which jurors are summoned to appear, in order to maximize their day of service.

(7) All who appear where summoned, except those who are excused from service, shall be paid for a day of service in accordance with KRS 29A.170.

SECTION 8. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

All records and papers compiled in the jury selection process shall be preserved for at least five (5) years after the date the selection process is completed. All records containing the names of persons chosen as jury commissioners or grand jurors shall be preserved for at least twenty-five (25) years.

Section 9. KRS 29A.130 is amended to read as follows:

In any twelve (12) month period, a person shall not be required to:

(1) Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or

(2) Serve on more than one (1) grand jury; or

(3) Serve as both a grand and petit juror except as provided in KRS *29A.230 and* 29A.260.

Section 10. KRS 29A.180 is amended to read as follows:

(1) The sheriff, city police or city marshal, as appropriate *under KRS 23A.090 and 24A.140,* shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in circuit court and in district court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for such services shall be borne by the finance and administration cabinet and such officer shall be reimbursed in accordance with regulations issued by the finance and administration cabinet.

(2) The sheriff, city police or city marshal, as appropriate *under KRS 23A.090 and 24A.140,* shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 20A.310. In criminal cases the expenses for such services shall be borne by the finance and administration cabinet and the sheriff shall be reimbursed in accordance with regulations issued by the finance and administration cabinet. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.

(3) The sheriff, city police or city marshal, as appropriate *under KRS 23A.090 and 24A.140,* shall be responsible for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for such services shall be borne by the finance and administration cabinet and such officer shall be reimbursed in accordance with regulations issued by the finance and administration cabinet. In such cases the judge may also request the Chief Justice to provide the services of the Kentucky state police to ensure proper security precautions relating to the case.

Section 11. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the chief circuit judge may summon, using the procedure in KRS 29A.060*(12)*[~~(10)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 12. KRS 29A.280 is amended to read as follows:

(1) Juries for all trials in circuit court shall be composed of twelve (12) persons. Juries for all trials in district court shall be composed of six (6) persons.

(2) *The parties may stipulate that the jury shall consist of any number less than provided by law or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury* [~~In circuit court, at any time before the jury is sworn, the parties with the approval of the court may stipulate that the jury shall consist of any number less than twelve (12), except that no jury shall consist of less than six (6) persons~~].

(3) A unanimous verdict is required in all criminal trials by jury. The agreement of at least three-fourths (3/4) of the jurors is required for a verdict in all civil trials by jury in circuit court. The agreement of at least five-sixths (5/6) of the jurors is required for a verdict in all civil trials by jury in district court.

SECTION 13. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

A motion raising an irregularity in the selection of summons of the jurors or formation of the jury must precede the examination of the jurors.

Section 14. KRS 29A.300 is amended to read as follows:

The court, *or the clerk if the court so orders,* shall swear the petit jurors using substantially the following oath: "Do you swear or affirm that you will impartially try the case between the parties and give a true verdict according to the evidence and the law, unless dismissed by the court?".

Section 15. KRS 29A.330 is amended to read as follows:

(1) *As provided in KRS 23A.200 and 24A.170, the jury fee for civil cases in circuit court is twenty-five dollars ($25) for a jury of more than six (6) persons, and twelve dollars and fifty cents ($12.50) for a jury of six persons. The jury fee for civil cases in district court is twelve dollars and fifty cents ($12.50).* [~~The jury fee for a civil trial in circuit court shall be twenty-five dollars ($25). The jury fee for a civil trial in district court shall be twelve dollars and fifty cents ($12.50).~~]

(2) *The jury fee in civil cases shall be paid at the time the request for a jury trial is made, and shall be paid by the party making the request. If two (2) or more cases are consolidated and tried together, the clerk shall collect only one (1) jury fee. A party who is proceeding in forma pauperis shall not be liable for a jury fee.* [~~The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.~~]

(3) *The clerk shall place the jury fee in an escrow account. If the request for a jury trial is withdrawn or the case disposed of at least two (2) court days prior to the date set for trial, the amount of the jury fee shall be refunded to the person paying it. Otherwise, it shall be placed in the general fund of the state treasury, in the same manner as the filing fee.* [~~If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee~~].

(4) *Unless the jury fee has been refunded as provided in subsection (3), the amount of the jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.* [~~If a plaintiff sues in forma pauperis, he shall not be liable for a jury fee.~~

~~(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.~~]

Section 16. The following KRS sections are repealed:

29A.120 Preservation of records and papers compiled in selection process.

29A.290 Examination of petit jurors—Challenges—Alternate jurors.

Motions, Petitions and Communications (Cont'd)

Representative Johnson moved that HB 262 be reassigned to Appropriations and Revenue. Agreed.

Representative Bruce moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following HR 64:

HR 64, A RESOLUTION condemning the United States Air Force for awarding a new contract to Arrow Air, Incorporated.

WHEREAS, Arrow Air, Inc. is the military-charter upon which 248 Fort Campbell soldiers were killed in a crash last December in Gander, Newfoundland; and

WHEREAS, the citizens of the Commonwealth were shocked and appalled to learn that after months of hazardous duty in the Middle East, our soldiers were transported on poorly maintained, privately owned equipment; and

WHEREAS, for the United States Air Force to allow American military personnel to be transported via private charter rather than aboard military aircraft is inexplicable and indefensible; and

WHEREAS, millions of Americans were outraged to learn of the circumstances surrounding the needless loss of these young heroes of the 101st Airborne Division; and

WHEREAS, it is uncomprehensible and unconscionable that the United States Air Force again awarded Arrow Air, Inc., a $7.6 million contract to transport military personnel;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House condemns the United States Air Force for awarding Arrow Air, Inc., a $7.6 million contract to transport military personnel after the tragedy of the crash in Newfoundland carrying the soldiers from Fort Campbell, Kentucky.

Section 2. That the members of this honorable body are dismayed, concerned and outraged that the Air Force would award this contract so soon after the Newfoundland crash while there are so many questions to be answered about the crash.

Section 3. That the House calls upon the Air Force and the Department of Defense to rectify this deplorable situation of using private military charters, and to assure our troops, their families, and the American people as a whole, and to guarantee that in the future our armed forces will be transported solely by well-maintained military aircraft.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to the President of the United States, Secretary of Defense Casper Weinberger, Kentucky Senators Wendell Ford, Mitch McConnell and Kentucky Representative Carroll Hubbard.

HR 64 was adopted by voice vote.

Representative Worthington moved to suspend the rules to act on a Citation. Agreed.

Representative Worthington moved the adoption of the following Legislative Citation No. 20. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes you, CORINNE PHILLIPS, ANDRE CRAIG, ARIC PORTER, and EDIE PHILLIPS, members of the Mason County 4-H Beef Bowl Team, as State Champions of the 1985 Kentucky State Fair Contest. Your knowledge of beef industry, management practices, health, history of the beef industry, has qualified you for this distinguished title. Your accomplishments and achievements have bestowed honor and pride on your family, school and community.

This prestigious body salutes you and we extend our very best wishes for continued success in future endeavors. (Sponsored by Representative Worthington)

Representative Ford moved to suspend the rules to act on a Resolution. Agreed.

Representative Ford moved the adoption of the following HR 63:

HR 63, A RESOLUTION honoring Mark Overbay and Amy Wood.

WHEREAS, the Kentucky Developmental Disability Planning Council has sponsored a poster contest based on the abilities and possibilities of the disabled, and featuring the slogan "Color Me Beautiful . . . Like You"; and

WHEREAS, Mark Overbay, Rockcastle County High School student from Mt. Vernon, was the Grand Prize winner; and

WHEREAS, Amy Wood, North Calloway Elementary School student from Murray, was the state runner-up; and

WHEREAS, all winning entries are to be displayed statewide; and

WHEREAS, Mark and Amy won, in addition to cash prizes, a trip to Frankfort, and are with us today to be honored;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House congratulates these fine young artists and wishes them every future success.

Section 2. That when the House adjourns this day, February 4, 1986, it does so in honor of Mark Overbay and Amy Wood.

Section 3. That copies of this resolution be presented to Mark Overbay and Amy Wood.

HR 63 was adopted by voice vote.

Representative L. Clark moved that HB 337 be withdrawn. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 63, HB 68, HB 116, HB 127 and HB 189 had been examined and found correctly enrolled. HB 63, HB 68, HB 116, HB 127 and HB 189 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:46 p.m.)

HB 63, HB 68, HB 116, HB 127 and HB 189 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (Cont'd)

Representative Todd moved the adoption of the following Legislative Citation No. 19. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes Coach JERRY WHITAKER and JAMES ROSE, TRACY WHITAKER, BILLY WHITAKER, CHRIS HONEYCUTT, JAMIE BROWN, DARRELL JACKSON, JOEY MOUNCE, BOBBY BAKER, SCOTT DOSCH, STEVEN DAVIS, JAMES WESLEY, JEFF LOVELESS, MARC CUNDIFF, SHANE HOSECLAW, BARRY PHELPS, CHRIS TURNER, BART HARRIS, ANTHONY HYDEN, and BOBBY ELDRIDGE, members of the Pulaski Elementary boys fifth and sixth grade basketball team. You have bestowed honor and pride on your family and school for your hard work and dedication to the basketball program. This prestigious body applauds you and extends to you best wishes in your future endeavors. (Sponsored by Representative Todd)

Representative Reinhardt moved that he be recorded as voting "Yea" on HB 148. Agreed.

Representative Moberly moved that he be recorded as voting "Nay" on HB 460. Agreed.

Representative Guenthner moved that he be recorded as voting "Yea" on HB 77, HB 181 and HB 243. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 477; Representative Brinkley, HB 315; Representative Burch, HB 280; Representative L. Clark, HB 436; Representative Ellington, HB 477; Representative Guenthner, HB 19 and HB 373; Representative K. Harper, HB 302, HB 448; Representative Mann, HB 522; Representative McBee, HB 53; Representative Morris, HB 53; Representative Seum, HB 315, HB 522; Representative White, HB 536.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to SB 3, by Representative Long:

Amend printed copy of SB 3:

on page 1, line 7, by inserting after the words "*of a*" the following: "*water supply or sanitary*"; and

on page 1, line 8, by inserting before the word "*does*" the following: "*shall,*" and by deleting the following: "*does*"; and

on page 1, line 9, by inserting before the word "*sanitary*" the following: "*water supply or*"; and

on page 1, line 10, by inserting after the words "*extension of*" the following: "*water or.*"

Floor Amendment No. 1 to HB 220, by Representative Yates:

Amend printed copy of HB 220:

by adding on page 1, line 4 after the word fees: *not to exceed, the cost of inspection as,*

and by adding on page 3, line 23 after the word fee: *not to exceed, the cost of examination and other expenses involved as,*

and by adding on page 4, line 3 after the word fee: *not to exceed, the costs involved in such renewal as.*

Floor Amendment No. 1 to HB 162, by Representative B. Richardson:

Amend printed copy of HB 162:

On page 14, after line 13, by adding:

"SECTION 7. KRS 304.40-260 IS AMENDED TO READ AS FOLLOWS:

As used in KRS 304.40-250 to 304.40-320, the following words and terms shall be defined as follows:

(1) "Health care provider" means any physician, osteopath, dentist, podiatrist, *chiropractor,* nurse or nurse's assistant, certified registered nurse anesthetist, physical or occupational therapist, or psychologist, licensed to practice health care in this state; any hospital, medical clinic, medical foundation, health maintenance organization, extended care facility, intermediate care facility, nursing home, emergency treatment center, out-patient medical or surgical center, frontier nursing service, or any other facility or service licensed under any act of this state to provide health care within this state; or any officer, director, employer agent thereof; and any corporation, partnership or sole proprietorship which directly provides medical services to its employes;

(2) "Commissioner" means the commissioner of insurance;

(3) "Patient" means a natural person who receives health care from a licensed health care provider under a contract, express or implied;

(4) "Claimant" means the patient or spouse, parent, guardian, trustee, or other authorized agent of the patient;

(5) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another;

(6) "Malpractice" means any tort or breach of contract based on health care or professional services rendered, or which should have been rendered, by a health care provider to the patient;

(7) "Health care" means any act, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider to a patient during that patient's care, treatment, or confinement for a physical or mental condition;

(8) "Malpractice insurer" means any insurance authority or any insurance company properly engaged in the practice of writing malpractice liability insurance under authority of the commissioner of insurance."

Floor Amendment No. 2 to HB 363, by Representative Deskins:

Amend printed copy of HB 363:

On page 4, after line 6, by adding the following:

"Section 2. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the workman, if requested by a party or by the board, shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employe shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at such examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employe at all reasonable times and under all reasonable conditions.

(2) If an employe refuses to submit himself to or in any way obstructs such examination his right to take or prosecute any proceedings under this chapter shall be suspended until such refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(3) Any employe receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and such other supporting information as the board may require.

(4) The board shall supply forms for such report.

(5) The party requesting an examination pursuant to this section shall make arrangements to provide the cost of the examination, the cost of transportation of the employe to and from the examination and the cost of meals and lodging, if necessary. If the employe uses his own vehicle to travel to and from an examination, the requesting party shall reimburse the employe at the federal or state mileage reimbursement rate, whichever is greater."

Floor Amendment No. 1 to HB 367, by Representative Brinkley:

Amend printed copy of HB 367:

On page 1, line 1,

delete "KRS 304.39-100 is amended" and insert in lieu thereof "A new section of KRS 304.20 is created"

On page 1, lines 3 through 7,

delete paragraph 1.

On page 1, line 8,

delete "(2)" and insert in lieu thereof "(1)."

On page 1, line 8,

delete "*liability*"

On Page 1, line 10,

delete "*liability*" and insert in lieu thereof "*property damage.*"

On page 1, lines 10 through 12,

delete "*include any other motor vehicle operated by the insured individual if the other motor vehicle*" and insert in lieu thereof "*cover the insured individual while operating a motor vehicle which.*"

On page 1, line 18,

delete "*liability*" and insert in lieu thereof "*property damage.*"

On page 1, line 20

After "*vehicle*" and before "." add "*as a result of the negligence of the insured.*"

On page 1, line 21, and page 2, lines 1 through 13,

delete paragraph 3.

Add a new section 2 to read as follows:

"Section 2. KRS 190.033 is amended to read as follows:

No motor vehicle dealer's license, or motor vehicle auction dealer's license or wholesaler's license shall be issued or renewed unless the applicant or holder of said license shall have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until cancelled under proper notice. All bonds or policies must be issued in the name of the holder or applicant for the dealer's license or wholesaler's license. The bond or policy shall provide public liability and property damage coverage for the operation of any vehicle owned or being offered for sale by the said dealer or wholesaler when being operated by the owner or seller, his agents, servants, employes, prospective customers or other persons. *Provided, however, that the property damage coverage mandated by this section shall only be in excess of the property damage coverage under a customer's or other person's own coverage for that person's own negligence.* The amount of said insurance shall be one hundred thousand dollars ($100,000) for bodily injury or death of any one person; and three hundred thousand dollars ($300,000) for bodily injury or death in any one accident; and fifty thousand dollars ($50,000) property damage. Said bond or insurance policy may not be cancelled unless fifteen (15) days' notice by the bondsman or insurance carrier has been given in writing to the department. Upon the cancellation of any bond or insurance policy required hereunder, the right to engage in the business of a motor vehicle dealer or wholesaler shall immediately abate; provided, however, that if the bond or insurance policy is reinstated within thirty (30) days from the date of cancellation the rights granted by the license shall again be in force and effect, otherwise, the said license shall become void."

Floor Amendment No. 4 to HB 255, by Representative Blevins:

Amend printed copy of HB 255:

On page 2, line 7,

by deleting the word "*seller*"

and by inserting in lieu thereof the word "*manufacturer*"

And on line 13,

by deleting after the word "*unit*" the word "*or*" and by inserting in lieu thereof ";"

On line 14,

by inserting after the word "*unit*" the following:

"*; or, upon the request of such owner or resident, a person licensed and acting in accordance with the requirements of KRS 318.010(2) and 318.010(3)*"

Floor Amendment No. 2 to Committee Substitute for HB 71, by Representative Scorsone:

Amend printed copy of Committee Substitute for HB 71:

on page 12, line 1, before "*Any*" to add the following: "*The Commonwealth's attorney in the case of a felony and the county attorney in the case of a misdemeanor or violation in any case where.*"

and on page 12, line 11, to delete "*victim*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 22, line 11, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 22, line 13, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 22, line 16, to delete "*persons sending the letter*" and to insert "*victim of the crime.*"

and on page 21, line 24, to delete "*person*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 21, line 25, to delete "*who sent the letter.*"

and on page 22, line 2, to delete "*person*" and to insert in lieu thereof "*Commonwealth's or county attorney.*"

and on page 22, line 11, to delete "*person*" and to insert "*victim of the crime.*"

and on page 22, line 13, to delete "*person*" and to insert "*victim of the crime.*"

and on page 22, line 16, to delete "*person sending the letter.*"

and to insert in lieu thereof "*victim of the crime.*"

and on page 22, line 23, to delete "*person sending the*" and to insert "*victim of the crime.*"

on page 22, line 24, to delete "*letter.*"

and on page 22, line 25, to delete "*person sending*" and to insert "*victim of the crime.*"

and on page 22, line 26, to delete "*the letter.*"

and on page 23, line 3, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 23, line 10, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

and on page 23, line 12, to delete "*person sending the*" and to insert "*victim of the crime.*"

and on page 23, line 13, to delete "*letter.*"

and on page 23, line 15, to delete "*person sending the letter*" and to insert "*victim of the crime.*"

Floor Amendment No. 3 to Committee Substitute for HB 71, by Representative Cowan:

Amend printed copy of Committee Substitute for HB 71:

on page 24 below line 3

to add the following:

"SECTION 21. A NEW SECTION OF KRS CHAPTER 512 IS CREATED TO READ AS FOLLOWS:

Conviction of a person for a misdemeanor level criminal damage to property offense shall bar the use of that offense for aggregation purposes in a felony level criminal damage to property prosecution."

SECTION 22. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

Conviction of a person for a misdemeanor level theft offense shall bar the use of that offense for aggregation purposes in a felony level theft offense prosecution."

Announcements

Appropriations and Revenue: Room 109, 8 a.m. February 5, 1986.

Cities: Cancelled February 5, 1986 will meet 1 p.m., February 10, 1986, Room 105, Public Hearing.

Counties and Special Districts: 12 Noon February 5, 1986.

Rules: On adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m., Wednesday, February 5, 1986.

On the roll call the vote was yeas 78—Allen, Arnold, Bendl, Blandford, Blevins, Brinkley, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McNutt, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Turner, White, Worthington, Yates. Nays 5—M. Brown, Cowan, Handy, Holbrook, Williams.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 5, 1986

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Robert Wood, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 4, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 585, by Representatives Handy, Cyrus, Smith, Bendl, P. Richardson, Cline, Hines, Head, Meyer, B. Richardson, Dawahare and Stewart: AN ACT relating to insurance.

HB 586, by Representatives Gedling and Kerr: AN ACT relating to the department of libraries and archives.

HB 587, by Representative Priddy: AN ACT relating to requirements for participation in the law enforcement foundation program fund.

HCR 66, by Representatives Cyrus and Yates: A CONCURRENT RESOLUTION requesting and encouraging the Kentucky Occupational Safety and Health Standards Board to review its regulations as they relate to hazardous substances in the workplace.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 569, HB 576, HB 578, HB 581, SB 70.

Banking and Insurance: HB 564.

Cities: HB 557, HB 583.

Counties and Special Districts: HB 561, HB 571.

Education: HB 566, HB 570, HB 573, HB 579.

Health and Welfare: HB 554, HB 568, HB 584.

Judiciary-Civil: HB 560, HB 562, HB 582, HCR 62, SB 128.

Judiciary-Criminal: HB 559, HB 574.

Natural Resources and Environmental: HB 565.

State Government: HB 555, HB 556, HB 558, HB 567, HB 572, HB 577, HCR 65, SB 153.

Transportation: HB 563, HB 575, HB 580.

Report of Committees

The Committee on Rules reported HB 39, HB 346, HB 347, HB 422, SB 104 and SB 107 have been posted for passage in Orders of the Day, February 6, 1986.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: HB 445.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: HB 307.

Banking and Insurance: HB 516.

Senate Message

Announcing passage of SB 76, SB 82, SB 86, SB 108, SB 120, SB 141, SB 178, SCR 2, SJR 19, and HB 279.

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported SJR 7 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 7, A JOINT RESOLUTION pledging to enact legislative measures during the 1986 Session to develop, staff, fund, support and maintain the programs and incentives pledged to the Toyota Motor Corporation in return for its commitment to the economic development of the Commonwealth.

WHEREAS, the Toyota Motor Corporation has announced that it will construct an automotive assembly plant capable of producing 200,000 vehicles per year with initial operations planned to commence in 1988; and

WHEREAS, the Toyota Motor Corporation will invest in excess of $500,000,000 to construct the automotive assembly plant in Scott County, Kentucky; and

WHEREAS, the Toyota Motor Corporation will employ up to 3,000 persons at the automotive assembly plant in Scott County, Kentucky; and

WHEREAS, the decision of the Toyota Motor Corporation to locate an automotive assembly plant in Scott County, Kentucky is a significant contribution to the economic development of the entire Commonwealth; and

WHEREAS, the Toyota Motor Corporation has relied upon the commitment of the Governor, the President Pro Tem of the Senate and the Speaker of the House of Representatives and other representatives of the Commonwealth to support legislation necessary to develop, staff, fund, support and maintain the programs and incentives pledged to Toyota in return for its commitment to the economic development of the Commonwealth.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That as soon as practicable after the enactment of this resolution, the General Assembly during the 1986 Session shall appropriate and authorize the expenditure during the 1986-1988 Biennium, all funds necessary to develop, staff, fund, support and maintain the programs and incentives pledged to the Toyota Motor Corporation including, but not limited to, those generally set forth below with the corresponding funds in return for Toyota's commitment to the economic development of the Commonwealth:

(1) Acquisition of real estate in Scott County, Kentucky which shall serve as the site for the Toyota Automotive Manufacturing Facility at an approximate cost of $10,000,000 to $15,000,000.

(2) Certain Toyota Automotive Manufacturing Facility site improvement expenses at an estimated cost of $20,000,000.

(3) Highway improvement and construction program in the vicinity of the Georgetown, Kentucky site to serve the transportation needs of the Toyota Automotive Manufacturing Facility, its employes and the community, estimated to cost $47,000,000.

(4) Development of an employe recruitment and skills training program for persons to be employed at the Toyota Automotive Manufacturing Facility at an estimated cost of $65,000,000.

(5) Develop and fund an educational curriculum to serve the needs of Japanese families brought to the Scott County Community.

(6) Develop and fund college level research and development in technical fields relating to automotive manufacturing, initial funding to be a minimum of $10,000,000.

The Committee on Judiciary-Civil reported HB 466, with Committee Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 466, AN ACT relating to transfers to minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Adult" means an individual who has attained the age of twenty-one (21) years;

(2) "Benefit plan" means an employer's plan for the benefit of an employe or partner;

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others;

(4) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions;

(5) "Court" means district court;

(6) "Custodial property" means:

(a) Any interest in property transferred to a custodian under this Act; and

(b) The income from and proceeds of that interest in property;

(7) "Custodian" means a person so designated under Section 9 of this Act; or a successor or substitute custodian designated under Section 18 of this Act;

(8) "Financial institution" means a bank, trust company savings institution or credit union, chartered and supervised under state or federal law;

(9) "Legal representative" means an individual's personal representative or conservator;

(10) "Member of the minor's family" means the minor's parent, step-parent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption;

(11) "Minor" means as individual who has not attained the age of twenty-one (21) years;

(12) "Person" means an individual, corporation, organization, or other legal entity;

(13) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions;

(14) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States;

(15) "Transfer" means a transaction that creates custodial property under Section 9 of this Act;

(16) "Transferor" means a person who makes a transfer under this Act;

(17) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies to a transfer that refers to this Act in the designation under Section 9(1) of this Act by which the transfer is made if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this Act despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this Act is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act, of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for .... (name of minor) under the Kentucky Uniform Transfers to Minors Act." The nomination may name one (1) or more persons as substitute custodians to whom the property must be transferred in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under Section 9(1) of this Act.

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under Section 9 of this Act. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to Section 9 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to Section 9 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A personal representative or trustee may make an irrevocable transfer pursuant to Section 9 of this Act to a custodian for the benefit of a minor as authorized in the governing will or trust.

(2) If the testator or settlor has nominated a custodian under Section 3 of this Act to receive the custodial property, the transfer must be made to that person.

(3) If the testator or settlor has not nominated a custodian under Section 3 of this Act, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under Section 9(1) of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsection (3) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to Section 9 of this Act, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(2) Subject to subsection (3) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to Section 9 of this Act.

(3) A transfer under subsection (1) or (2) of this section may be made only if:

(a) The personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor;

(b) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and

(c) The transfer is authorized by the court if it exceeds ten thousand dollars ($10,000) in value.

SECTION 7. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsections (2) and (3) of this section, a person not subject to Section 5 or 6 of this Act who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to Section 9 of this Act.

(2) If a person having the right to do so under Section 3 of this Act has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(3) If no custodian has been nominated under Section 3 of this Act, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ten thousand dollars ($10,000) in value.

SECTION 8. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

A written acknowledgement of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) Custodial property is created and a transfer is made whenever:

(a) An uncertificated security or a certificated security in registered form is either:

1. Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: ''as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act''; or

2. Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (2) of this section;

(b) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: ''as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act'';

(c) The ownership of a life or endowment insurance policy or annuity contract is either:

1. Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for .... (name of minor) under the Kentucky Uniform Transfers to Minors Act"; or

2. Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for ________ (name of minor) under the Kentucky Uniform Transfers to Minors Act";

(d) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for .... (name of minor) under the Kentucky Uniform Transfers to Minors Act";

(e) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act";

(f) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

1. Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act"; or

2. Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act"; or

(g) An interest in any property not described in paragraphs (a) through (f) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (2) of this section.

(2) An instrument in the following form satisfies the requirements of paragraphs (a)2. and (g) of subsection (1) of this section:

"TRANSFER UNDER THE KENTUCKY

UNIFORM TRANSFERS TO MINORS ACT

I, ____________ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to ____________ (name of custodian), as custodian for ____________ (name of minor) under the Kentucky Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: ____________________

____
(Signature)

____________ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Kentucky Uniform Transfers to Minors Act.

Dated: ____________________

____
(Signature of Custodian)

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable.

SECTION 10. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

A transfer may be made only for one (1) minor, and only one (1) person may be the custodian. All custodial property held under this Act by the same custodian for the benefit of the same minor constitutes a single custodianship.

SECTION 11. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) The validity of a transfer made in a manner prescribed in this Act is not affected by:

(a) Failure of the transferor to comply with Section 9(3) of this Act concerning possession and control;

(b) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under Section 9(1) of this Act; or

(c) Death or incapacity of a person nominated under Section 3 of this Act or designated under Section 9 of this Act as custodian or the disclaimer of the office by that person.

(2) A transfer made pursuant to Section 9 of this Act is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this Act, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this Act.

(3) By making a transfer, the transferor incorporates in the disposition all the provisions of this Act and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A custodian shall:

(a) Take control of custodial property;

(b) Register or record title to custodial property if appropriate; and

(c) Collect, hold, manage, invest, and reinvest custodial property.

(2) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person, dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(a) The life of the minor only if the minor or the minor's estate is the sole beneficiary; or

(b) The life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(4) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for ________ (name of minor) under the Kentucky Uniform Transfers to Minors Act."

(5) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor has attained the age of fourteen (14) years.

SECTION 13. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(2) This section does not relieve a custodian from liability for breach of Section 12 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(a) The duty or ability of the custodian personally or of any other person to support the minor; or

(b) Any other income or property of the minor which may be applicable or available for that purpose.

(2) On petition of an interested person or the minor if the minor has attained the age of fourteen (14) years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.

SECTION 15. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(2) Except for one who is a transferor under Section 4 of this Act, a custodian has a non-cumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(3) Except as provided in Section 18(6) of this Act, a custodian need not give a bond.

SECTION 16. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under this Act for, any act of the purported custodian;

(3) The validity or propriety under this Act of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the minor delivered to the purported custodian.

SECTION 17. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A claim based on:

(a) A contract entered into by a custodian acting in a custodial capacity;

(b) An obligation arising from the ownership or control of custodial property; or

(c) A tort committed during the custodianship, may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

(2) A custodian is not personally liable:

(a) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

(b) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

SECTION 18. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A person nominated under Section 3 of this Act or designated under Section 9 of this Act as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under Section 3 of this Act, the person who made the nomination may nominate a substitute custodian under Section 3 of this Act; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under Section 9(1) of this Act. The custodian so designated has the rights of a successor custodian.

(2) A custodian at any time may designate a trust company or an adult other than a transferor under Section 4 of this Act as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(3) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of fourteen (14) years and to the successor custodian and by delivering the custodial property to the successor custodian.

(4) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of fourteen (14) years, the minor may designate as successor custodian, in the manner prescribed in subsection (2) of this section, an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor has not attained the age of fourteen (14) years or fails to act within sixty (60) days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(5) A custodian who declines to serve under subsection (1) of this section or resigns under subsection (3) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(6) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if the minor has attained the age of fourteen (14) years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under Section 4 of this Act or to require the custodian to give appropriate bond.

SECTION 19. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) A minor who has attained the age of fourteen (14) years, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court:

(a) For an accounting by the custodian or the custodian's legal representative; or

(b) For a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under Section 17 of this Act to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) The court, in a proceeding under this Act or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(4) If a custodian is removed under Section 18(6) of this Act, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

SECTION 20. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) The minor's attainment of twenty-one(21) years of age with respect to custodial property transferred under Section 4 or 5 of this Act;

(2) The minor's attainment of age eighteen (18) with respect to custodial property transferred under Section 6 or 7 of this Act; or

(3) The minor's death.

SECTION 21. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

This Act applies to a transfer within the scope of Section 2 of this Act made after its effective date if:

(1) The transfer purports to have been made under the Uniform Gifts to Minors Act of Kentucky; or

(2) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this Act is necessary to validate the transfer.

SECTION 22. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

(1) Any transfer of custodial property as now defined in this Act made before the effective date of this Act is validated notwithstanding that there was no specific authority in the Uniform Gifts to Minors Act of Kentucky for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) This Act applies to all transfers made before the effective date of this Act in a manner and form prescribed in the Uniform Gifts to Minors Act of Kentucky, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this Act.

(3) Sections 1 and 20 of this Act with respect to the age of a minor for whom custodial property is held under this Act do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of the age of eighteen (18) after and before the effective date of this Act.

SECTION 23. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject to this Act among states enacting it.

SECTION 24. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Uniform Transfers to Minors Act."

SECTION 25. A NEW SECTION OF KRS CHAPTER 385 IS CREATED TO READ AS FOLLOWS:

To the extent that this Act, by virtue of Section 22(2) of this Act, does not apply to transfers made in a manner prescribed in the Gifts to Minors Act of Kentucky or to the powers, duties, and immunities conferred by transfers in that manner upon custodians and persons dealing with custodians, the repeal of the Gifts to Minors Act of Kentucky does not affect those transfers or those powers, duties, and immunities.

Section 26. The following KRS sections are hereby repealed:

385.011 Definitions.

385.021 Manner of making gifts.

385.031 Effect of gift.

385.041 Duties and powers of custodian.

385.051 Custodian's expenses—Compensation—Bond and liabilities.

385.061 Exemption of third persons from liability.

385.071 Resignation, death or removal of custodian—Bond—Designation of successor custodian.

385.081 Accounting of custodian.

385.091 Construction.

385.101 Short title.

385.110 Bequests of intangible property to minors.

385.120 Testator may provide bequest is subject to Kentucky uniform gift to minors act.

385.130 Designation of custodian.

385.140 Direct bequest to minor.

385.150 Distribution of bequest.

385.160 Successor custodians.

385.170 Vacancy in custodianship.

385.180 Duties of custodian.

385.190 Jurisdiction of undistributed property.

385.200 Method for making bequests not exclusive.

The Committee Amendment No. 1 to HB 466 is as follows:

Amend printed copy of HB 466:

On page 1, line 5, delete "*twenty-one (21)*" and insert in lieu thereof "*eighteen (18)*";

On page 2, line 15, delete "*twenty-one (21)*" and insert in lieu thereof "*eighteen (18)*";

On page 21, line 15, after "*(1)*" delete "*The minor's attainment of twenty-one (21) years of age with respect to custodial property transferred under Section 4 or 5 of this Act; (2)*";

On page 21, line 19, after "*Section*" insert "*4, 5,*";

On page 21, line 21, delete "*(3)*" and insert in lieu thereof "*(2)*";

On page 22, lines 21-26, after "*rights*" insert a period and delete the remainder of line 21 and delete lines 22-26 in their entirety;

On page 23, lines 1-2, delete lines 1-2 in their entirety.

The Committee on Labor and Industry reported HB 364, with Committee Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 364, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.197 is amended to read as follows:

(1) No employe shall be harassed, coerced, discharged, or discriminated against in any manner whatsoever for filing and pursuing a lawful claim under this chapter.

(2) Any employe who is harassed, coerced, discharged or discriminated against for filing and pursuing a lawful claim under this chapter may request that the county attorney file a criminal charge against the offending employer in the circuit court of the county where the offense occurred, or may request that the attorney general file a criminal charge against the offending employer in Franklin Circuit Court.

(3) Any employe who is harassed, coerced, discharged or discriminated against for filing and pursuing a lawful claim under this chapter may file a civil action in the circuit court of the county where the offense occurred or in Franklin Circuit Court.

The Committee Amendment No. 1 to HB 364 is as follows:

Amend printed copy of HB 364:

on page 1, beginning on line 11, by deleting the following:

"*, or may request that the attorney general file a criminal charge against the offending employer in Franklin Circuit Court*"

and, beginning on line 17, by deleting the following:

"*or in Franklin Circuit Court*"

The Committee on Agriculture and Small Business reported HB 163, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 163, AN ACT relating to grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.610 is amended to read as follows:

For the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490 and 251.600 to 251.740, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky grain insurance corporation.

(2) "Claimant" means any producer or person who *is a participant in the grain insurance program, and:*

(a) Possesses warehouse receipts covering grain owned or stored by the grain dealer or warehouseman;

(b) Has written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards;

(c) Has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued;

(d) Has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; or

(e) [~~has participated in the grain insurance fund, possessing warehouse receipts covering grain owned or stored by the grain dealer or warehouseman; any person with written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards; any person who has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued; any person who has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; any producer who~~] Possesses written evidence of the sale of grain to a failed grain dealer or failed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department of agriculture in accordance with the grain storage establishment license act and KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740.

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740.

(5) "Commissioner" means the commissioner of the department of agriculture.

(6) "Corporation" means the Kentucky grain insurance corporation.

(7) "Department" means the department of agriculture of the Commonwealth of Kentucky.

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license.

(9) "Fund" means the Kentucky grain insurance fund established by the corporation pursuant to KRS 251.640.

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department.

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Moneys due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds or property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets.

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner.

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States Warehouse Act that has entered into a cooperative agreement with the department.

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with or as an incident to a feed milling operation and whose total purchases of grain during any fiscal year do not exceed one hundred thousand dollars ($100,000).

(16) *"Participant in the grain insurance program" means any producer or person who has contributed to the grain fund pursuant to KRS 251.640 and has never requested a refund, or has entered the program pursuant to Section 4 of this Act.*

(17) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(18)[~~(17)~~] "Producer" or "grain producer" means the owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.

(19)[~~(18)~~] "Program" means the Kentucky grain insurance program.

(20)[~~(19)~~] "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended.

(21)[~~(20)~~] "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after July 13, 1984, and adjudicated valid by the department, less all credits and offsets.

(22)[~~(21)~~] "Warehouse receipt" means:

(a) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the Uniform Commercial Code; or

(b) A warehouse receipt issued under the United States Warehouse Act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

Section 2. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky grain insurance corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the commissioner of the department of agriculture, who shall serve as president; the attorney general, who shall serve as secretary; the state treasurer, who shall serve as treasurer; the state auditor; two (2) representatives *from* [~~selected by~~] the Kentucky Feed and Grain Association *selected by the commissioner*; two (2) representatives *from* [~~selected by~~] the Kentucky Farm Bureau Federation *selected by the commissioner*; and two (2) representatives *from* [~~selected by~~] the Kentucky National Farmers Organization *selected by the commissioner. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the commissioner from which the commissioner shall make his appointments.* Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the department of agriculture, the attorney general, and the state auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky grain insurance fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

Section 3. KRS 251.640 is amended to read as follows:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain shall be assessed one-half (1/2) cent per bushel on all grain marketed and provide for the collection of the same for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created. However, grain producers from outside of Kentucky shall not be subject to the assessment if they certify to the grain dealer or warehouseman that they are out-of-state producers. The department shall establish the form to be completed, signed and given to the grain dealer or warehouseman in order to obtain the exemption. The information required by the department shall include at a minimum, the date, the producer's name, business address, phone number, quantity and identify the grain. Copy of such form shall be kept as a part of the books and records by the grain dealer or warehouseman and in addition a copy of such form shall be supplied to the department. A grain producer from outside of Kentucky may be subject to the assessment and therefore awarded all the protection thereof if he so chooses and meets the requirements of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740. The Kentucky grain insurance corporation may enter into a reciprocal agreement with a contiguous state having a similar program.

(2) Upon the establishment of the Kentucky grain insurance corporation, the commissioner shall notify forthwith by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the grain. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours. The commissioner or his agents may take such steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

(3) The assessment shall continue until the fund is more than three million dollars ($3,000,000). If and when the fund is more than three million dollars ($3,000,000), no fees shall be assessed by the department until such time as the amount in the fund drops below three million dollars ($3,000,000). [~~However, any producer who has not contributed to the fund may participate in the program and therefore be awarded all the protection thereof only after an assessment equal to one-half (1/2) cent per bushel on all grain marketed by the producer during the preceding twelve (12) month period is made and paid into the fund. No producer will be granted protection of the fund who has not participated in the program prior to meeting the criteria of a claimant.~~]

(4) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.

(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, the grain insurance corporation may make application to the Franklin Circuit Court for an order enjoining such acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

(6) The assessments by the department pursuant to this section are in addition to any other fees or assessments required by law.

SECTION 4. A NEW SECTION OF KRS 251.640 to 251.650 IS CREATED TO READ AS FOLLOWS:

(1) Producers who have requested and received a refund of an assessment pursuant to KRS 251.650(4) may re-enter the grain insurance program by:

(a) Petitioning the Kentucky grain insurance board for approval of re-entry into the program;

(b) Immediately upon mailing said petition for re-entry to the offices of the Kentucky department of agriculture, placing an amount equal to all previous assessment refunds to that producer in an escrow account in a local bank, such previous assessments and the terms and conditions of the escrow account to be determined by the Kentucky department of agriculture; and

(c) The board shall review the producer's petition for re-entry and if approved the producer shall repay into the grain insurance fund all previous assessment refunds as determined by the Kentucky department of agriculture. Producers re-entering the grain insurance program pursuant to this section will be protected by the program from the time all previous assessment refunds were placed in escrow.

(2) Once the fund reaches three million dollars ($3,000,000) and all assessments to the Kentucky grain insurance fund have ceased pursuant to KRS 251.640, all producers who have not requested and received a refund shall be participants in the program.

(3) No producer will be granted protection of the grain insurance program who has not been a participant in the program prior to meeting the criteria of a claimant.

Section 5. KRS 251.720 is amended to read as follows:

(1) Any person engaged in the business of buying grain from producers for resale or for milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30, and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) *From zero to one hundred thousand (100,000) bushels, one hundred dollars ($100);*

(b) One hundred thousand (100,000) to [~~Under~~] two million (2,000,000) bushels, two hundred dollars ($200);

(c)[~~(b)~~] Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(d)[~~(c)~~] Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(e)[~~(d)~~] Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the state treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee *or an irrevocable letter of credit on forms prescribed by the commissioner.* The principal amount of the certificate *or letter of credit* shall be the same as that required for a surety bond under this section, and the interest thereon *if any* shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this section. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee *or an irrevocable letter of credit on forms prescribed by the commissioner.* The principal amount of the certificate shall be the same as that required for a surety bond under this section and the interest thereon shall be made payable to the purchaser thereof.

(4) The commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased, or when he determines that the grain dealer does not have a sufficient net worth to meet his financial obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit *or an irrevocable letter of credit* equal to the insufficiency, as

deemed appropriate by the commissioner. Failure to post the additional bond or certificate of deposit *or an irrevocable letter of credit* constitutes grounds for suspension or revocation of a license issued under this section.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this section. It shall be for the use and benefit of any producer from whom the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this section and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, than that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000) plus any additional bond required in excess thereof.

(7) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of one hundred thousand dollars ($100,000) may satisfy the bonding requirements of this section by filing with the department a bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* and to keep the bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this section.

(9) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined in KRS 251.610 may be exempted from the licensing fee and bonding requirements of KRS 251.451 as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

The Committee Substitute to HB 163 is as follows:

HB 163, AN ACT relating to grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.610 is amended to read as follows:

For the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490 and 251.600 to 251.740, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky grain insurance corporation.

(2) "Claimant" means any producer or person who *is a participant in the grain insurance program, and:*

(a) Possesses warehouse receipts covering grain owned or stored by the grain dealer or warehouseman;

(b) Has written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards;

(c) Has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued;

(d) Has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; or

(e) [~~has participated in the grain insurance fund, possessing warehouse receipts covering grain owned or stored by the grain dealer or warehouseman; any person with written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards; any person who has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued; any person who has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; any producer who~~] Possesses written evidence of the sale of grain to a failed grain dealer or failed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department of agriculture in accordance with the grain storage establishment license act and KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740.

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740.

(5) "Commissioner" means the commissioner of the department of agriculture.

(6) "Corporation" means the Kentucky grain insurance corporation.

(7) "Department" means the department of agriculture of the Commonwealth of Kentucky.

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license.

(9) "Fund" means the Kentucky grain insurance fund established by the corporation pursuant to KRS 251.640.

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department.

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Moneys due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds or property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets.

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner.

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States Warehouse Act that has entered into a cooperative agreement with the department.

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with or as an incident to a feed milling operation and whose total purchases of grain during any fiscal year do not exceed one hundred thousand dollars ($100,000).

(16) "Participant in the grain insurance program" means any producer or person who has contributed to the grain fund pursuant to KRS 251.640 and has never requested a refund, or has entered the program pursuant to Section 4 of this Act.

(17) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(18)[~~(17)~~] "Producer" or "grain producer" means the owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.

(19)[~~(18)~~] "Program" means the Kentucky grain insurance program.

(20)[~~(19)~~] "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended.

(21)[~~(20)~~] "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after July 13, 1984, and adjudicated valid by the department, less all credits and offsets.

(22)[~~(21)~~] "Warehouse receipt" means:

(a) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the Uniform Commercial Code; or

(b) A warehouse receipt issued under the United States Warehouse Act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

Section 2. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky grain insurance corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the commissioner of the department of agriculture, who shall serve as president; the attorney general, who shall serve as secretary; the state treasurer, who shall serve as treasurer; the state auditor; two (2) representatives *from* [~~selected by~~] the Kentucky Feed and Grain Association *selected by the commissioner*; two (2) representatives *from* [~~selected by~~] the Kentucky Farm Bureau Federation *selected by the commissioner*; and two (2) representatives *from* [~~selected by~~] the Kentucky National Farmers Organization *selected by the commissioner. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the commissioner from which the commissioner shall make his appointments.* Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the department of agriculture, the attorney general, and the state auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky grain insurance fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

Section 3. KRS 251.640 is amended to read as follows:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain shall be assessed one-half (1/2) cent per bushel on all grain marketed and provide for the collection of the same for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created. However, grain producers from outside of Kentucky shall not be subject to the assessment if they certify to the grain dealer or warehouseman that they are out-of-state producers. The department shall establish the form to be completed, signed and given to the grain dealer or warehouseman in order to obtain the exemption. The information required by the department shall include at a minimum, the date, the producer's name, business address, phone number, quantity and identify the grain. Copy of such form shall be kept as a part of the books and records by the grain dealer or warehouseman and in addition a copy of such form shall be supplied to the department. A grain producer from outside of Kentucky may be subject to the assessment and therefore awarded all the protection thereof if he so chooses and meets the requirements of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740. The Kentucky grain insurance corporation may enter into a reciprocal agreement with a contiguous state having a similar program.

(2) Upon the establishment of the Kentucky grain insurance corporation, the commissioner shall notify forthwith by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the grain. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours. The commissioner or his agents may take such steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

(3) The assessment shall continue until the fund is more than three million dollars ($3,000,000). If and when the fund is more than three million dollars ($3,000,000), no fees shall be assessed by the department until such time as the amount in the fund drops below three million dollars ($3,000,000). [~~However, any producer who has not contributed to the fund may participate in the program and therefore be awarded all the protection thereof only after an assessment equal to one-half (1/2) cent per bushel on all grain marketed by the producer during the preceding twelve (12) month period is made and paid into the fund. No producer will be granted protection of the fund who has not participated in the program prior to meeting the criteria of a claimant.~~]

(4) Any producer upon and against whom the assessment is levied and collected under the provisions of this section, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.

(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, the grain insurance corporation may make application to the Franklin Circuit Court for an order enjoining such acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

(6) The assessments by the department pursuant to this section are in addition to any other fees or assessments required by law.

SECTION 4. A NEW SECTION OF KRS 251.640 to 251.650 IS CREATED TO READ AS FOLLOWS:

(1) Producers who have requested and received a refund of an assessment pursuant to KRS 251.650(4) may re-enter the grain insurance program by:

(a) Petitioning the Kentucky grain insurance board for approval of re-entry into the program;

(b) Immediately upon mailing said petition for re-entry to the offices of the Kentucky department of agriculture, placing an amount equal to all previous assessment refunds to that producer in an escrow account in a local bank, such previous assessments and the terms and conditions of the escrow account to be determined by the Kentucky department of agriculture; and

(c) The board shall review the producer's petition for re-entry and if approved the producer shall repay into the grain insurance fund all previous assessment refunds as determined by the Kentucky department of agriculture. Producers re-entering the grain insurance program pursuant to this section will be protected by the program from the time all previous assessment refunds were placed in escrow.

(2) Once the fund reaches three million dollars ($3,000,000) and all assessments to the Kentucky grain insurance fund have ceased pursuant to KRS 251.640, all producers who have not requested and received a refund shall be participants in the program.

(3) No producer will be granted protection of the grain insurance program who has not been a participant in the program prior to meeting the criteria of a claimant.

Section 5. KRS 251.720 is amended to read as follows:

(1) Any person engaged in the business of buying grain from producers for resale or for milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30, and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) *From zero to six thousand (6,000) bushels, fifty dollars ($50);*

(b) Six thousand (6,000) to one hundred thousand (100,000) bushels, one hundred dollars ($100);

(c) One hundred thousand (100,000) to [~~Under~~] two million (2,000,000) bushels, two hundred dollars ($200);

(d)[~~(b)~~] Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(e)[~~(c)~~] Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(f)[~~(d)~~] Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the state treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee *or an irrevocable letter of credit on forms prescribed by the commissioner.* The principal amount of the certificate *or letter of credit* shall be the same as that required for a surety bond under this section, and the interest thereon *if any* shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this section. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee *or an irrevocable letter of credit on forms prescribed by the commissioner.* The principal amount of the certificate shall be the same as that required for a surety bond under this section and the interest thereon shall be made payable to the purchaser thereof.

(4) The commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased, or when he determines that the grain dealer does not have a sufficient net worth to meet his financial

obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit *or an irrevocable letter of credit* equal to the insufficiency, as deemed appropriate by the commissioner. Failure to post the additional bond or certificate of deposit *or an irrevocable letter of credit* constitutes grounds for suspension or revocation of a license issued under this section.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this section. It shall be for the use and benefit of any producer from whom the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this section and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, than that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000) plus any additional bond required in excess thereof.

(7) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of one hundred thousand dollars ($100,000) may satisfy the bonding requirements of this section by filing with the department a bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* and to keep the bond, [~~or~~] certificate of deposit *or an irrevocable letter of credit* in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this section.

(9) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined in KRS 251.610 may be exempted from the licensing fee and bonding requirements of KRS 251.451 as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

The Committee on Counties and Special Districts reported HB 389 and HB 402 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 389, AN ACT relating to the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, 1984, the member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and thirty-five hundredths percent (2.35%) of final compensation for each year of service credit. *Effective August 1, 1986, a member of the county employes retirement system covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-five hundredths percent (2.45%) of final compensation for each year of service credit.* The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the internal revenue code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.510 to 16.652 a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

HB 402, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 72.405 is amended to read as follows:

As used in KRS 72.410 to 72.470, unless the context clearly indicates otherwise:

(1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him in ascertaining the cause of death in a coroner's case.

(2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his county was caused by any of the conditions set forth in KRS 72.025.

(3) "Inquest" means an examination ordered by the coroner, or in his absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him in ascertaining the cause and manner of death.

(4) "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the department of justice and may include an autopsy performed by a pathologist or other appropriate scientific tests administered to determine cause of death.

(5) "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the department of justice to have successfully completed both the basic training course and annual inservice training course required by KRS 72.415, except that a *coroner or* deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he is a licensed physician. The secretary of justice may waive the requirement for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982 if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he is qualified to be a certified coroner without taking the basic training.

Calendar

HB 296, HB 367, HB 455, HB 462, HCR 40, SB 16, HB 326 and HB 480 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 255, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the floor Amendment No. 4 to HB 255. Agreed.

Representative Blevins moved that HB 255, as amended, be passed.

On the roll call the vote was: Yeas 50, Nays 46. (See February 5, 1986, roll call on HB 255—Appendix A.)

HB 255, as amended was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 255, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved to reconsider the vote by which the Committee Amendment to HB 217 was adopted.

On the roll call the vote was yeas 59 Arnold, Barrows, Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Cyrus, Deskins, Donnermeyer, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hines, Holbrook, Johnson, Kerr, Layman, Lile, Lyne, Mack, Maggard, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Pearman, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, Stone, Strong, Stumbo, Thomas, Worthington, Yates. Nays 31 Allen, Blandford, M. Brown, Burnette, Caldwell, Curd, Dawahare, Ellington, Farrow, Ford, Head, Heleringer, Jensen, Keith, Lear, Lefevers, LeMaster, Little, Long, McBee, Napier, Noland, Overstreet, Preston, Rose, Siler, Smith, Stewart, Todd, Turner, Williams.

The motion to reconsider Committee Amendment No. 1 to HB 217 was adopted.

Representative Burch moved HB 217 be passed.

On the roll call the vote was: Yeas 31, Nays 55. (See February 5, 1986, roll call on HB 217—Appendix A.)

HB 217 was defeated.

Without objection the Chair ruled the clincher motion is to apply to HB 217. Agreed.

HB 71, with Committee Substitute, Committee Amendment, Title Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Substitute to HB 71. Agreed.

Representative Cowan moved the adoption of Committee Amendment No. 1 to HB 71. Agreed.

Representative Cowan moved the adoption of Floor Amendment No. 3 to HB 71. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 2 to HB 71.

On the roll call the vote was: Yeas 53, Nays 31.

On the roll call the vote was yeas 53 Allen, Arnold, Barrows, Bennett, Blevins, Brinkley, M. Brown, F. Brown, Burch, Clarke, Cline, Cowan, Deskins, Ellington, Ford, Guenthner, Handy, J. Harper, Hines, Holbrook, Jensen, T. Jones, Keith, Layman, Lefevers, Little, McBee, McElroy, McNutt, Morris, Napier, Nett, Noe, O'Brien, Overstreet, Preston, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Smith, Stewart, Stone, Thomas, Todd, Turner, White, Williams, Worthington. Nays 31 Blandford, Caldwell, L. Clark, P. Clark, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Gray, Gregory, Hancock, K. Harper, Head, Heleringer, Johnson, Kerr, Lear, LeMaster, Long, Lyne, Mack, Maggard, Meyer, Moberly, Pearman, Pritchett, Siler, Strong, Stumbo.

Floor Amendment No. 2 to HB 71 was adopted.

Representative Meyer moved that HB 71, as amended, be passed.

On the roll call the vote was: Yeas 40, Nays 51. (See February 5, 1986, roll call on HB 71—Appendix A.)

HB 71, as amended, was defeated.

Representative Williams moved that the vote by which HB 71, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 279 had been examined and found correctly enrolled. HB 279 read at length compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:56 p.m.)

Orders of the Day (Continued)

HB 278 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that HB 278 be passed.

On the roll call the vote was: Yeas 49, Nays 31. (See February 5, 1986, roll call on HB 278—Appendix A.)

HB 278 was passed and the title agreed to.

Representative Heleringer moved that the vote by which HB 278 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 73, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that SB 73 be passed.

On the roll call the vote was: Yeas 76, Nays 5. (See February 5, 1986, roll call on SB 73—Appendix A.)

SB 73 was passed and the title agreed to.

Representative Guenthner moved that the vote by which SB 73 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3 with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that HB 3 be passed.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to HB 3. Agreed.

Representative Hancock moved that HB 3, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 5, 1986, roll call on HB 3—Appendix A.)

HB 3 was passed and the title agreed to.

Representative Hancock moved that the vote by which HB 3 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 142 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that HB 142 be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 5, 1986, roll call on HB 142—Appendix A.)

HB 142 was passed and the title agreed to.

Representative Yates moved that the vote by which HB 142 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to HB 334. Agreed.

Representative Stone moved that HB 334, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See February 5, 1986, roll call on HB 334—Appendix A.)

HB 334, as amended, was passed and the title agreed to.

Representative Stone moved that the vote by which HB 334, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 366, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that HB 366 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 5, 1986 roll call on HB 366—Appendix A.)

HB 366 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 366 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 368 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that HB 368 be passed.

On the roll call the vote was: Yeas 84, Nays 1. (See February 5, 1986, roll call on HB 368—Appendix A.)

HB 368 was passed and the title agreed to.

Representative Arnold moved that the vote by which HB 368 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 293 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that HB 293 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 5, 1986, roll call on HB 293—Appendix A.)

HB 293 was passed and the title agreed to.

Representative Little moved that the vote by which HB 293 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 333 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that HB 333 be passed.

On the roll call the vote was: Yeas 57, Nays 33. (See February 5, 1986, roll call on HB 333—Appendix A.)

HB 333 was passed and the title agreed to.

Representative Maggard moved that the vote by which HB 333 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that HB 434 be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 6, 1986, roll call on HB 434—Appendix A.)

HB 434 was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 434 was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 588, by Representative Yates: AN ACT relating to criminal records.

HB 589, by Representative Donnermeyer: AN ACT relating to abortion.

HB 590, by Representative Clarke, T. Jones and Barrows: AN ACT relating to the transportation of fuels.

HB 591, by Representative K. Harper: AN ACT relating to state government.

HB 592, by Representative Rapier: AN ACT providing for the establishment of my old Kentucky home advisory commission.

HB 593, by Representative Rapier: AN ACT relating to school districts.

HB 594, by Representatives Cyrus, Holbrook, Cline, F. Brown, Stumbo, Brinkley, Stone, Deskins and Maggard: AN ACT relating to sales and use tax.

HB 595, by Representatives Cyrus, Holbrook, Cline, F. Brown, Stumbo, Brinkley, Stone, Deskins and Maggard: AN ACT relating to sales and use tax.

HB 596, by Representative Johnson: AN ACT relating to venue.

HB 597, by Representative Bennett: AN ACT relating to hazardous duty coverage.

HB 598, by Representative Stumbo: AN ACT relating to gas pipelines.

HB 599, by Representative Gray: AN ACT relating to motor vehicle operators' licenses.

HB 600, by Representative Barrows: AN ACT relating to motor vehicle insurance.

HB 601, by Representative Cowan: AN ACT relating to boards of education and child care centers.

HR 67, by Representatives Ford and Siler: A RESOLUTION commemorating Kathy Lynn Hanna.

HR 68, by Representatives Heleringer and Guenthner: A RESOLUTION commemorating Judge Thomas O. Garvey.

HR 69, by Representatives Reinhardt, Burnette, Kerr, Gray, Gedling, Lyne, Maggard, Napier, McElroy, Arnold, Seum, Todd, Head, Smith, Crupper, Farrow and Ratliff: A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: HB 436.

Labor and Industry: HB 485, HB 424, HB 550, HB 530, HB 499.

Report of Committees (Continued)

The Committee on Business Organizations and Professions reported HB 388, with Committee Substitute attached thereto, HB 489, with Committee Substitute attached thereto, and HB 452, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 388, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3) (a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located within two hundred (200) feet of a building used primarily as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1978 or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied primarily as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

(4) No retail package license shall be issued for any premises at which more than fifty percent (50%) of the gross receipts are derived from the sale of items other than alcoholic beverages. The board shall examine each application in order to make the determination of whether to grant or withhold the granting of such license and shall exercise its sound discretion in making the decision in each case.

The Committee Substitute to HB 388 is as follows:

HB 388, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3) (a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located within two hundred (200) feet of a building used primarily as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken in a straight line from the

nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1978 or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied primarily as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

(4) (a) No retail package liquor license shall be issued or renewed for any premises at which more than fifty percent (50%) of the gross receipts are derived from the sale of items other than alcoholic beverages. The board shall examine each application to determine whether to grant or withhold such license and may by regulation require the submission of such other information as may be necessary to determine the qualifications of the applicant under the provisions of this Act.

(b) No person having an interest, either direct or indirect, in any license effected by this Act shall be eligible for any subsequent issuance of that license or transfer of that license to other premises.

(c) This Act shall become effective as to each establishment which hereunder is no longer eligible for a retail package liquor license upon the expiration of any current license issued by the board.

HB 489, AN ACT relating to transient merchants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Transient merchant" means any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise or commodities of any kind, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle or real estate; and

(2) "Temporary or transient business" means any business conducted for the sale or offer for sale of goods, wares or merchandise which is carried on in any building, structure, motor vehicle or real estate in one (1) locality for a period of less than six (6) months in each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to:

(1) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;

(2) Wholesale trade shows or conventions;

(3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) Fairs and convention center activities conducted primarily for amusement or entertainment;

(5) Any general sale, fair, auction or bazaar sponsored by any religious or public service organization;

(6) Garage sales held on the premises devoted to residential use;

(7) Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;

(8) Sales of locally grown agricultural products;

(9) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;

(10) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties;

(11) Flea market vendors who can demonstrate compliance with KRS 139.550;

(12) Licensed auctioneers; and

(13) Temporary sales at another location by businesses with a permanent business location within the state of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any transient merchant to transact business in any county of this state unless such merchant and the owners of any goods, wares or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a permit and shall have otherwise complied with the requirements of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which such merchant desires to transact business. The application for permit shall be designed and distributed by the revenue cabinet, shall be filed by the transient merchant with the county clerk, and shall include the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in Section 7.

The absence of any of the above information shall result in the denial of such permit by the county clerk.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The county clerk shall forward a copy of each approved application to the revenue cabinet and to the office of the attorney general within ten (10) days of approval.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each registered agent designated by a transient merchant in the application for a permit shall be a resident of the state and shall be agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served. The registered agent shall agree in writing to act as such agent and a copy of the agreement to so act shall be filed with the application for a permit.

(2) If any transient merchant doing business or having done business in any county within the state shall fail to have or maintain a registered agent in the state or if such registered agent cannot be found at his permanent address, the secretary of state shall be agent of such transient merchant for service of all process, notices or demands.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each application for a transient merchant permit shall be accompanied by a permit fee of twenty-five dollars ($25) to be retained by the office of the county clerk. In addition, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of one thousand five hundred dollars ($1,500) or more, shall secure and submit evidence of security, a cash bond or a surety bond in the amount of one thousand dollars ($1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the attorney general and he shall issue a certificate of security to be used by the applicant as evidence of security.

(2) The surety bond required by this section shall be in favor of the Commonwealth of Kentucky and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employes for violation of the provisions of this Act, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employes in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant.

(3) The bond shall be maintained so long as the transient merchant conducts business in the Commonwealth of Kentucky and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the attorney general that it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A transient business permit shall be used hereunder only when all requirements of this Act have been met. Such permit shall not be transferable, shall be valid only within the territorial limits of the issuing county, and shall be valid only for a period of ninety (90) days. A permit so issued shall be valid for only one (1) person, unless such person shall be a member of a partnership or employe of a firm or corporation obtaining such permit. The permit shall at all times be conspicuously displayed at any place that the transient merchant is transacting business. If the county clerk refuses to issue the permit, the applicant may apply to the district court for a hearing. The clerk shall notify the county attorney who shall appear in opposition to the issuance of the permit.

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general may enforce the provisions of this Act by civil action for injunctive relief in any court of competent jurisdiction. In such action to obtain said injunction it shall be sufficient to allege and prove that a violation of this Act has occurred or is about to occur, and it shall not be necessary to allege or prove that any person has been damaged or sustained any loss as a result of any violation of this Act.

(2) When the provisions of this Act are enforced by the attorney general through civil action, he may ask for and the court may assess a civil penalty for the benefit of the Commonwealth, not to exceed the sum of two thousand dollars ($2,000), said penalty to be in lieu of all penalties set forth in Section 11 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed to limit the authority of counties or cities to levy additional license fees and to require additional bonding for transient merchants engaging in business in such counties or cities.

SECTION 11. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any person or entity that transacts a transient business as defined herein without first having obtained a permit in accordance with the provisions of this Act or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise in violation of the provisions of this Act, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars ($500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

The Committee Substitute to HB 489 is as follows:

HB 489, AN ACT relating to transient merchants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Transient merchant" means any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise or commodities of any kind, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle or real estate; and

(2) "Temporary or transient business" means any business conducted for the sale or offer for sale of goods, wares or merchandise which is carried on in any building, structure, motor vehicle or real estate in one (1) locality for a period of less than six (6) months in each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to:

(1) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;

(2) Wholesale trade shows or conventions;

(3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) Participants in fairs and convention center activities when the participants' businesses are conducted primarily for amusement or entertainment;

(5) Any general sale, fair, auction or bazaar sponsored by any religious, public service or charitable organization;

(6) Garage sales held on the premises devoted to residential use;

(7) Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;

(8) Sales of locally grown agricultural products;

(9) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;

(10) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties;

(11) Flea market vendors who can demonstrate compliance with KRS 139.550;

(12) Professions and occupations licensed and regulated by the state when the activities are performed within the scope of their respective statutory and regulatory authority; and

(13) Temporary sales at another location by businesses with a permanent business location within the state of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any transient merchant to transact business in any county of this state unless such merchant and the owners of any goods, wares or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a permit and shall have otherwise complied with the requirements of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which such merchant desires to transact business. The application for permit shall be designed and distributed by the revenue cabinet, shall be filed by the transient merchant with the county clerk, and shall include the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in Section 7.

The absence of any of the above information shall result in the denial of such permit by the county clerk.

(9) In urban county governments, the authority and duties conferred by this Act upon county clerks shall be discharged by the officer of the government having responsibility for the issuance of business permits and licenses generally.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The county clerk shall forward a copy of each approved application to the revenue cabinet and to the office of the attorney general within ten (10) days of approval.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each registered agent designated by a transient merchant in the application for a permit shall be a resident of the state and shall be agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served. The registered agent shall agree in writing to act as such agent and a copy of the agreement to so act shall be filed with the application for a permit.

(2) If any transient merchant doing business or having done business in any county within the state shall fail to have or maintain a registered agent in the state or if such registered agent cannot be found at his permanent address, the secretary of state shall be agent of such transient merchant for service of all process, notices or demands.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each application for a transient merchant permit shall be accompanied by a permit fee of twenty-five dollars ($25) to be retained by the office of the county clerk. In addition, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of one thousand five hundred dollars ($1,500) or more, shall secure and submit evidence of security, a cash bond or a surety bond in the amount of one thousand dollars ($1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the attorney general and he shall issue a certificate of security to be used by the applicant as evidence of security.

(2) The surety bond required by this section shall be in favor of the Commonwealth of Kentucky and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employes for violation of the provisions of this Act, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employes in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant.

(3) The bond shall be maintained so long as the transient merchant conducts business in the Commonwealth of Kentucky and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the attorney general that it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A transient business permit shall be used hereunder only when all requirements of this Act have been met. Such permit shall not be transferable, shall be valid only within the territorial limits of the issuing county, and shall be valid only for a period of ninety (90) days. A permit so issued shall be valid for only one (1) person, unless such person shall be a member of a partnership or employe of a firm or corporation obtaining such permit. The permit shall at all times be conspicuously displayed at any place that the transient merchant is transacting business. If the county clerk refuses to issue the permit, the applicant may apply to the district court for a hearing. The clerk shall notify the county attorney who shall appear in opposition to the issuance of the permit.

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general may enforce the provisions of this Act by civil action for injunctive relief in any court of competent jurisdiction. In such action to obtain said injunction it shall be sufficient to allege and prove that a violation of this Act has occurred or is about to occur, and it shall not be necessary to allege or prove that any person has been damaged or sustained any loss as a result of any violation of this Act.

(2) When the provisions of this Act are enforced by the attorney general through civil action, he may ask for and the court may assess a civil penalty for the benefit of the Commonwealth, not to exceed the sum of two thousand dollars ($2,000), said penalty to be in lieu of all penalties set forth in Section 11 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed to limit the authority of counties or cities to levy additional license fees and to require additional bonding for transient merchants engaging in business in such counties or cities and to otherwise regulate transient merchants engaging in business in such counties or cities.

SECTION 11. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any person or entity that transacts a transient business as defined herein without first having obtained a permit in accordance with the provisions of this Act or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise in violation of the provisions of this Act, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars ($500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

HB 452, AN ACT relating to dental hygiene.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of dentistry.

(2) Any person shall be regarded as "practicing dentistry" who, for a fee, salary or other reward paid, or to be paid either to himself, or to another person, performs or advertises to perform, dental operations of any kind, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell or deliver any such substitute or the services rendered in the construction, reproduction, supply or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another, or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.

(3) "Dental hygiene" shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from beneath the free margin of the gums, and may also include other dental activities not specifically prohibited by this chapter or by regulation of the board provided, that nothing in KRS 313.260 to 313.350 shall be so construed as to affect the practice of medicine or dentistry nor to prevent students of a dental college or university from practicing dental hygiene under supervision of their instructors; and, provided further, that nothing in KRS 313.260 to 313.350 shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth *unless the operation is performed under the general supervision of a dentist* [~~without supervision of a dentist~~].

(4) *"General Supervision" means that degree of supervision where the licensed dentist diagnoses the patient's condition, develops a treatment plan and authorizes the service or procedure to be performed by a dental hygienist but is not required to be physically on the premises when such service or procedure is being performed.*

(5) "Dental laboratory" includes any person, firm or corporation other than a licensed dentist, who directly or through an agent or employe, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, other than those unfinished substitutes normally available through dental supply houses, or who furnishes, supplies, constructs or reproduces or repairs any prosthetic denture, bridge or appliance to be worn in the human mouth or who performs or offers or undertakes to perform or accomplish dental laboratory technology.

(6)[~~(5)~~] "Dental laboratory technician" means any individual who performs or offers or undertakes to perform or accomplish dental laboratory technology and who is classified as such by regulations of the board adopted as provided in this chapter.

(7)[~~(6)~~] "Commercial dental laboratory" shall mean any dental laboratory as defined in subsection (4) of this section other than a laboratory of practicing dentists, accredited schools and nonprofit institutions for use only for their own patients.

(8)[~~(7)~~] "Commission" means the dental laboratory advisory commission.

(9)[~~(8)~~] "Laboratory association" means the Kentucky dental laboratory association.

Section 2. KRS 313.310 is amended to read as follows:

(1) No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employe of a licensed and practicing dentist in this state and is under the *general* [~~continuous~~] supervision [~~and inspection~~] of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization. A practicing dentist may not have in his employ more than the equivalent of two (2) full-time dental hygienists. The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

(2) Authorized procedures may be performed by dental hygienists at such places as the dentist may designate or direct including but not limited to hospitals and nursing homes. No licensed dental hygienist shall be permitted to practice independently from the authorization and general supervision of a licensed dentist. No licensed dental hygienist shall be allowed to practice without a dentist being physically on the premises unless he has valid current certification that he has successfully completed an approved course in cordiopulmonary resuscitation.

The Committee Substitute to HB 452 is as follows:

HB 452, AN ACT relating to dental hygiene.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.310 is amended to read as follows:

(1) No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employe of a licensed and practicing dentist in this state and is under the [~~continuous~~] supervision [~~and inspection~~] of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization. A practicing dentist may not have in his employ more than the equivalent of two (2) full-time dental hygienists. The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

(2) A licensed dental hygienist may perform dental hygiene without a licensed dentist being on the premises in a dentist's office and in hospitals, nursing homes or other facilities or locations containing individuals who, because of age, disability or for other valid reasons are not able to receive treatment in a dentist's office, if the individuals receiving treatment have been examined by, and have had treatment prescribed by, the supervising dentist within twelve (12) months of the treatment date. No licensed dental hygienist shall be allowed to practice without a dentist being on the premises unless he has valid current certification that he has successfully completed an approved course in cordiopulmonary resuscitation. Nothing in this section shall be construed as permitting a licensed dental hygienist to practice independent of the authorization and supervision of a licensed dentist.

Motions, Petitions and Communications

Representative Crupper moved the adoption of the following Legislative Citation No. 22. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Terrell Ray Angus, Terry Bay, Daniel E. Borthick, Jerry Brown, Michael Easley, John Fritz, Jr., Andy Graves, Larry Wayne Hall, Dan Hardaway, Hampton "Hoppy" Henton, Jr., Stanley Alan Holder, Paul Hornback, William "Rod" Kuegel, Jr., Danny McKinney, Daniel Morgan, James Murphy, Samuel Dean Nibert, John Parker, Jeff Settles, Don Smart, Joe Spalding, Johnny Stallard, Joe Keller Thomas III, Paul Tucker and Jerry Wayne Withers, as you were selected to the Philip Morris Agricultural Leadership Development Program at the University of Kentucky in June, 1985. Your commitment to community and civic affairs and your involvement in the production of Burley Tobacco has afforded you this recognition. You were nominated by your home countys' leadership which is exemplary of your hard work and dedication to upgrading and maintaining the agriculture of this Great Nation.

This prestigious body salutes and applauds you as you have bestowed honor and pride on your family, community and the state you represent. (Sponsored by Representative Crupper)

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following HR 68:

HR 68, A RESOLUTION commemorating Judge Thomas O. Garvey.

WHEREAS, Judge Thomas O. Garvey was suddenly stricken Monday while on vacation with his wife and friends; and

WHEREAS, Judge Garvey, a graduate of St. Xavier High School of Louisville and the University of Louisville School of Law, served as Assistant Commonwealth's Attorney from 1963 to 1971, and since 1977 served as Jefferson County District Judge; and

WHEREAS, Judge Garvey was a devoted husband and the loving father of six sons, including District Judge Kevin Garvey;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House laments the loss of this distinguished public servant and extends its sincere condolences to his family.

Section 2. That when the House adjourns this day, Wednesday, February 5, 1986, it does so in memory of Judge Thomas O. Garvey.

Section 3. That a copy of this resolution be sent to Mrs. Thomas O. Garvey.

HR 68 was adopted by voice vote.

Representative Ford moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ford moved the adoption of the following HR 67:

HR 67, A RESOLUTION commemorating Kathy Lynn Hanna.

WHEREAS, on January 19, 1986, a highway collision took the life of young Kathy Lynn Hanna of McCreary County; and

WHEREAS, Kathy Lynn Hanna was one of McCreary County Central High School's most loved, respected and accomplished students; and

WHEREAS, Kathy Hanna was the editor of her school paper, and a member of numerous groups and organizations, including the girls' basketball and track teams, the R.O.T.C. Drill Team and Color Guard, and the Co-Ed Y; and

WHEREAS, in testimony of their love and admiration of Kathy Hanna, more than 2,500 friends and neighbors paid their respects in a special visitation at her school's auditorium; and

WHEREAS, Kathy Hanna's parents volunteered her organs for transplant, thus passing the gift of life from this thoughtful and generous girl to at least six people;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its sorrow over this tragic death and extends its sincere sympathy to Mr. and Mrs. Floyd Hanna.

Section 2. That when the House adjourns this day, Wednesday, February 5, 1986, it does so in memory of Kathy Lynn Hanna and in recognition of the contributions she made to her world.

Section 3. That copies of this resolution be sent to Mr. and Mrs. Floyd Hanna, to Mr. Bobby Nelson, the principal of McCreary County Central High School, and to the Reverend Otis Caudill, pastor of Pine Knot Baptist Church.

HR 67 was adopted by voice vote.

Representative Lear moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lear moved the adoption of the following HR 48:

HR 48, A RESOLUTION congratulating Shirley McVay Wiseman of Lexington, Kentucky.

WHEREAS, Shirley McVay Wiseman was recently elected to the position of Vice President and Secretary of the National Association of Home Builders; and

WHEREAS, Shirley McVay Wiseman is the first woman to hold such a position in the national association; and

WHEREAS, the Commonwealth of Kentucky has benefited from her tireless efforts in promoting growth as a former officer of the Home Builders Association of Kentucky and Home Builders Association of Lexington; and

WHEREAS, Shirley McVay Wiseman will serve as President of the National Association of Home Builders in 1989;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House is extremely proud to honor Shirley McVay Wiseman for her extraordinary efforts on becoming elected as a Senior Officer of the National Association of Home Builders.

Section 2. That a copy of this resolution be sent to Shirley McVay Wiseman.

HR 48 was adopted by voice vote.

Representative Cowan moved that HB 71 be reassigned to Judiciary-Criminal. Agreed.

Representative Bendl moved that she be recorded as voting "nay" on HB 460 and changing her vote from "nay" to "yea" on HB 142.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative P. Clark, HB 280; Representative Donnermeyer, HB 3, HB 67, HB 326; Representative Ellington, HB 334; Representative K. Harper, HB 589; Representative McElroy, HB 24; Representative Kerr, HB 197; Representative McNutt, HB 488; Representative Seum, HB 280; Representative Todd, HB 51, HB 501, HB 453.

Motions, Petitions and Communications (Continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to HB 220, by Representative Yates:

Amend printed copy of HB 220:

by adding on page 1, line 4 after the word fees: *not to exceed, the cost of inspection as,*

and by adding on page 3, line 23 after the word fee: *not to exceed, the cost of examination and other expenses involved as,*

and by adding on page 4, line 3 after the word fee: *not to exceed, the costs involved in such renewal as.*

Floor Amendment No. 1 to HB 10, by Representative Lear:

Amend printed copy of HB 10:

On page 1, line 3, by deleting "*or counties containing a city of the first class*"; and

on page 1, line 12, by deleting the words "*and counties containing a city of*"; and

on page 1, line 13, by deleting "*the first class*".

Floor Amendment No. 1 to HB 64, by Representative B. Richardson:

Amend printed copy of HB 64:

on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of one million dollars ($1,000,000) due to all bodily injuries or deaths per occurrence, *or in lieu thereof, if the applicant's amusement ride or amusement attraction is one (1) that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of liability insurance in the sum of one hundred thousand dollars ($100,000) or proof of financial responsibility in the sum of one hundred thousand dollars ($100,000).* Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.

Floor Amendment No. 1 to SB 104, by Representative Caldwell:

Amend printed copy of SB 104:

On page 1, line 8, after the word "*topical*" by inserting the word "*antimicrobial*";

and on page 1, line 19, after the word "*topical*", by inserting the word "*antimicrobial*";

and on page 5, line 23, after the word "*topical*", by inserting the word "*antimicrobial*";

and on page 5, line 26, after the word "*topical*", by inserting the word "*antimicrobial*";

and on page 6, line 20, after the word "*topical*", by inserting the word "*antimicrobial*";

and on page 6, line 22, after the word "*topical*" by inserting the word "*antimicrobial*".

Floor Amendment No. 2 to SB 104, by Representative Guenthner:

Amend printed copy of SB 104:

On page 6, after line 13, by adding the following: "*Nothing in this Act shall be construed to authorize any optometrist to treat chronic glaucoma or herpes.*"

Floor Amendment No. 3 to SB 104, by Representative Guenthner:

Amend printed copy of SB 104:

On page 7, after line 11, by adding the following:

"*(16) Any optometrist authorized by the board to utilize topical therapeutic pharmaceutical agents shall be held to the same standard of care that applies to a physician who specializes in eye care.*"

Floor Amendment No. 4 to SB 104, by Representative Lear:

Amend printed copy of SB 104:

On page 5, line 23, after the word "*agents*", by adding, "*, with the exception of any cardiotropic pharmaceutical agent,*".

On page 6, line 23, after the word "*agents*", by adding "*, with the exception of any cardiotropic pharmaceutical agents*".

Floor Amendment No. 1 to HB 217, by Representative Overstreet:

Amend printed copy of HB 217:

On page 2, line 25, after the word "time", by deleting the rest of that page in its entirety; and

On page 3, line 1, by deleting the line in its entirety.

Announcements

Health and Welfare: Appropriations and Revenue Subcommittee on CHR budget, 10:00 a.m. Thursday, February 6, 1986.

Budget Review—General Government, cancelled today; will meet Thursday, February 6, 1986.

Natural Resources: Thursday, February 6, 1986.

Committee Chairman: 30 minutes on adjournment today, Room 104.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 6, 1986.

On the roll call the vote was yeas 74—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, T. Jones, Kerr, Layman, Lear, Lefevers, Lile, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Rapier, Reinhardt, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Williams, Worthington. Nays 6—Guenthner, Handy, Heleringer, Holbrook, Overstreet, Thomas.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 6, 1986

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Calloway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 5, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 602, by Representative Blevins: AN ACT relating to motor carriers.

HB 603, by Representative Blevins, Donnermeyer, Mann, Noe, Maggard, White, Rose and Gedling: AN ACT relating to the state board of medical licensure.

HB 604, by Representatives Siler, White and Jensen: AN ACT relating to insurance.

HB 605, by Representative Burch: AN ACT relating to the sales tax on horses.

HB 606, by Representative Richards: AN ACT relating to speech pathologists and audiologists.

HB 607, by Representatives O'Brien and Smith: AN ACT relating to insurance.

HR 70, by Representatives Overstreet, LeMaster, Moberly and Napier: A RESOLUTION designating members of the singing group Exile as honorary goodwill ambassadors of the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 594, HB 595, HB 597.

Banking and Insurance: HB 585, SB 76, SB 86.

Cities: HB 587.

Education: HB 593, HB 601, SB 82, SJR 19.

Energy: HB 598, SB 178, SCR 2.

Health and Welfare: HB 589.

Judiciary-Civil: HB 596.

Judiciary-Criminal: HB 588, SB 141.

Labor and Industry: SB 108, HCR 66.

State Government: HB 586, HB 591, HB 592.

Transportation: HB 590, HB 599, HB 600, SB 120.

Report on Enrolled Bills

HB 279 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of SB 117, SB 179.

Report of Committees

The Committee on Rules reported HB 296, HB 367, HB 455, HB 462, HCR 40 and SB 16 have been posted for passage in Orders of the Day, February 7, 1986.

The Committee on Rules reported HB 16 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Energy reported HB 234, with Committee Amendment and Title Amendment attached thereto, HB 438, HB 440 and HB 443 with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 234, AN ACT relating to usage of atmospheric fluidized bed combustion technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) "Fluidized bed energy production facility" shall mean any facility or property which is fueled by Kentucky coal and which employs atmospheric fluidized bed combustion technology to burn said coal for the purpose of producing thermal, mechanical or electrical enegry.

(2) "Atmospheric fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the revenue cabinet pursuant to Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Application for an atmospheric fluidized bed combustion technology tax exemption certificate shall be filed with the revenue cabinet in such manner and in such form as may be prescribed by regulations issued by the revenue cabinet and shall contain plans and specifications of the structure including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing an atmospheric fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the revenue cabinet for the proper administration of this Act. The energy cabinet shall provide technical assistance and factual information as requested in writing by the revenue cabinet. If the revenue cabinet finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of issuance of said certificate.

(2) Before issuing an atmospheric fluidized bed combustion technology tax exemption certificate, the revenue cabinet shall give notice in writing by mail to the secretary of the energy cabinet and shall afford to the applicant and to the secretary of the energy cabinet an opportunity for a hearing. The hearing shall take place within sixty (60) days following notification. The secretary of the energy cabinet along with the applicant shall be notified of the hearing at least two (2) weeks prior to the hearing. On like notice and opportunity for a hearing the revenue cabinet shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation or acquisition of the atmospheric fluidized bed combustion unit; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of generating energy.

(3) Where the circumstances so require, the revenue cabinet, in lieu of revoking such certificate, may modify the same.

(4) On mailing of notice of the action of the revenue cabinet revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An atmospheric fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the energy cabinet. Notice of an order of the revenue cabinet denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder and shall be sent to the secretary of the energy cabinet. The applicant or holder and the secretary of the revenue cabinet are deemed parties for the purposes of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an atmospheric fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the revenue cabinet to the Kentucky board of tax appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an atmospheric fluidized bed combustion unit, not involving a different location or use, the holder of the atmospheric fluidized bed construction technology tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate would be obligated to pay taxes on such facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the revenue cabinet.

(8) In the event an atmospheric fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the energy and revenue cabinets.

(9) The atmospheric fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provision of this Act and KRS Chapters 132, 136, 138 and 139. Each exemption certificate shall remain in force for a period of five (5) years from the date of issuance and at the end of said period shall lapse. Any atmospheric fluidized bed combustion unit previously exempt under the terms of this Act shall not be eligible for re-certification upon completion of the five (5) year certificate period.

Section 3. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(11) Tombstones and other memorial grave markers; and

(12) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(13) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(14) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(15) Any property which has been certified as an alcohol production facility as defined in KRS 247.910; and

(16) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter.

(17) Any property which has been certified as a fluidized bed energy production facility as defined in Section 1 of this Act.

Section 4. KRS 136.070 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except state and national banks and trust companies, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the investment company act of 1940, production credit associations,

insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, *any property or facility which has been certified as a fluidized bed energy production facility as defined in Section 1 of this Act,* and any other religious, educational, charitable or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) (a) The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed monies or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year.

(b) "Capital employed," in the case of corporations having property or payroll only in this state, means "capital" as defined above.

(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section.

(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.850 shall be excluded from the property factor.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the cabinet under regulations promulgated by the cabinet. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of capital employed in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 5. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half (31-1/2) cents upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five (25) cents upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen (15) cents upon machinery and products in course of

manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture, fifteen (15) cents upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen (15) cents upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, *or as a fluidized bed energy production facility as defined in Section 1 of this Act,* twenty-five (25) cents upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five (45) cents upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state.

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto.

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars of assessed value.

(6) Thirty (30) cents of the thirty-one and one-half (31-1/2) cents state tax rate on real property and thirty (30) cents of the forty-five (45) cents state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty (30) cents, as certified by the department of education, the direct payments shall be reduced proportionately.

(7) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(8) By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(9) In the event that the tax rate set by the cabinet as provided in subsection (8) of this section produces more

than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(10) An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calendar Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

Section 6. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half (1-1/2) cents on each $100 of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half (4-1/2) cents on each $100 of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(2) in determining the amount of county appropriation to the office of the property valuation administrator;

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(14) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale.

(15) Property which has been certified as a fluidized bed energy production facility as defined in Section 1 of this Act.

The Committee Amendment No. 1 to HB 234 is as follows:

Amend printed copy of HB 234:

On page 1, line 5, by deleting "*atmospheric*"

and on line 8, by deleting "*Atmospheric*"

and on line 14, by deleting "*atmospheric*"

and on page 2, line 2, by deleting "*atmospheric*"

and on line 13, by deleting the word "*issuing*" and by adding in lieu thereof "*the issuance or denial of*"

and by deleting the word "*atmospheric*"

and on page 3, line 5, by deleting "*atmospheric*"

and on line 17, be deleting "*atmospheric*"

and on page 4, line 5, by deleting "*atmospheric*"

and on line 11, by deleting "*atmospheric*"

and on line 13, by deleting "*atmospheric*"

and on line 22, by deleting "*atmospheric*"

and on page 5, line 3, by deleting "*atmospheric*"

and on line 9, by deleting "*atmospheric*"

The Title amendment to HB 234 is as follows:

Amend printed copy of HB 234 by amending the title to read as follows:

AN ACT relating to the usage of fluidized bed combustion technology.

HB 438, AN ACT relating to officers of the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.100 is amended to read as follows:

[~~(1)~~] The commission shall appoint an executive director [~~and a secretary~~], who shall hold office during its pleasure and shall devote *his* [~~their~~] entire time to the duties of *his office* [~~their offices~~]. The executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmental regulation and knowledge relatable to utility regulation. The executive director shall be the chief administrative officer *for the commission and shall be responsible for implementing the programs, directing the staff, and maintaining the official records of commission proceedings, including all approved orders.* [~~of the office of the commission and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commission. The secretary shall keep a full and true record of all the proceedings of the commission, of all books and papers ordered filed by the commission, and of all orders made by the commission or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office.~~

~~(2) The chairman of the commission shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the person so designated shall possess the same powers as their principal.~~

~~(3) The executive director with the approval of the chairman of the commission may assign the secretary additional administrative duties.~~]

HB 440, AN ACT relating to the organization of the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.115 is amended to read as follows:

The commission *shall establish the internal organization of its offices and shall divide the commission into such offices or divisions as the commission may deem necessary to perform the functions, powers and duties of the commission, subject to the provisions of KRS Chapter 12* [~~by regulation shall organize its offices for administration and management under the executive director to reflect its functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service~~ as ~~provided in KRS 18A.115(1)(i)~~].

HB 443, AN ACT relating to natural gas pipelines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any person except a city or an interstate pipeline subject to the direct jurisdiction of the federal office of pipeline safety, who constructs or operates a pipeline or pipelines which convey natural gas for any purpose, shall be subject to all design, construction and safety standards established for pipelines by the public service commission.

(2) This section shall not apply to pipelines which originate, traverse and terminate within a single tract of land and which have a common ownership of the sole source of production and consumption.

Section 2. KRS 278.504 is amended to read as follows:

As used in KRS 278.505 to 278.507 *and Section 1 of this Act*, unless the context requires otherwise:

(1) "Intrastate pipeline" means any utility or any other person engaged in natural gas transportation in intrastate commerce, for compensation, to or for another person or to or for the public, but shall not include any part of any pipeline dedicated to storage or gathering or low pressure distribution of natural gas;

(2) "Interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(3) "Local distribution company" means any utility or any other person, other than an interstate pipeline or an intrastate pipeline, engaged in transportation or local distribution of natural gas and the sale of natural gas for ultimate consumption, but shall not include any part of any pipeline primarily used for storage or gathering or low pressure distribution of natural gas;

(4) "Intrastate commerce" includes the production, gathering, treatment, processing, transportation and delivery of natural gas entirely within the Commonwealth which is not subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(5) "Transportation" includes exchange, backhaul, displacement or other means of transportation; and

(6) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest.

The Committee on Natural Resources and Environment reported HB 418, HB 428 with Committee Substitute and Committee Amendments attached thereto, HCR 5, SB 21 and SB 24 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the calendar.

HB 418, AN ACT relating to private drinking water supplies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.015 is amended to read as follows:

As used in KRS 211.005 to 211.330, unless the context requires otherwise:

(1) "Cabinet" means the cabinet for human resources;

(2) "Secretary" means the secretary of the cabinet for human resources;

(3) *"Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.*

(4)[~~(3)~~] As used in KRS 211.740 and 211.750, unless the context otherwise requires:

(a) "Department" means department for health services;

(b) "Commissioner" means the commissioner of the department for health services;

(c) "Committee" means the hemophilia advisory committee;

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The department for health services in the human resources cabinet shall establish a program for testing, upon request, private water supplies for bacterial and chemical contamination, and for educating the public about proper siting and drilling of wells and treatment of wells and other private water supplies. The program shall consist of the following elements:

(1) The development of policies, in conjunction with the natural resources cabinet, for testing private water supplies and using relevant information in a groundwater data base;

(2) The development of a data collection system, in conjunction with the natural resources cabinet, which shall contain the results of water sample tests and information on well location sufficient to locate the wells on an official map;

(3) The development of a private water supply user's manual to be made available to the public; and

(4) The development of a technical assistance program for private water supply users.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The Kentucky housing corporation shall develop a financial assistance program for replacement or rehabilitation of unsafe wells and other private water supplies serving low-income families.

HB 428, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.876 is amended to read as follows:

(1) The general assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the general assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The natural resources and environmental protection cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. *The provisions of KRS 45.700 to 45.720 may be suspended by the cabinet if necessary to respond to an environmental emergency.*

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) *Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance.* Provide adequate testing, planning, contracting for removal, and cleanup of abandoned hazardous waste sites in all situations and to the extent that responsible parties are economically or otherwise unavailable to properly address the problem when the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) *The cabinet shall have the authority to finance the non-federal share of the cost for clean up of sites under the comprehensive environmental response, compensation and liability act of 1980, (public law 96-510).*

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. *Any expenditures recovered shall be placed in the hazardous waste management fund.*

(6)[~~(5)~~] It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(7)[~~(6)~~] There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that *no assessment shall be levied against* generators *for any quantity* of "special wastes" *or* [~~and retailers who generate~~] waste oil [~~shall be exempt from said assessment~~]. The assessment shall be reported and paid to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a report or return in such form as the revenue cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon said

business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that the reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal monies are available to carry out the duties imposed by subsection (3) of this section the assessment shall cease to be levied and collected until such time as federal monies are no longer available to the Commonwealth for said purposes. The assessment shall be charged against generators of hazardous waste until June 30, *1988* [~~1986~~], and after such date no further hazardous waste management assessment shall be charged against generators.

(8)[~~(7)~~] The assessment on generators shall be determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half of the amount as would be assessed for off-site treatment and disposal except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.

(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents ($.02) per gallon initially, and shall increase by one cent ($.01) annually up to five cents ($.05) per gallon in 1983 and remain at five cents ($.05) thereafter if the waste is liquid, or two dollars and fifty cents ($2.50) per cubic yard if the waste is solid. Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet.

(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent ($.01) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid.

(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(9) Except for waste brought into the state by a company affiliated with the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8)(a) through (d) of this section. The facility shall remit the assessment to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a return as the revenue cabinet shall prescribe.

(10)[~~(8)~~] If any generator *or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section* fails or refuses to file a return or furnish any information requested in writing by the cabinet, the revenue cabinet may, from any information in its possession, make an estimate and issue an assessment against such generator *or hazardous waste facility* and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11)[~~(9)~~] If any generator *or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section* fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the revenue cabinet, then, unless it is shown to the satisfaction of the revenue cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the revenue cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12)[~~(10)~~] If the assessment imposed by this chapter, whether assessed by the revenue cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the revenue cabinet.

(13)[~~(11)~~] There is hereby created within the state treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. *The fund shall be deposited in an interest bearing account.*

The revenue cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the state treasury shall be deposited in the hazardous waste management fund. When the state treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the state treasurer certifies to the revenue cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000).

(14)[~~(12)~~] Upon request of the secretary, monies accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. [~~However, monies from the fund shall not be used when federal monies are available to carry out said duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal monies.~~]

(15) The hazardous waste management fund may be used by the cabinet to subsidize a municipality, urban-county government, or county or other similar political subdivision of the state up to a maximum of fifty percent (50%) for the proper closure of or abatement of pollutants from a waste site or facility in which hazardous substances were disposed.

(16) If any person, responsible for a release or threatened release of a hazardous substance, fails to take response actions or to make reasonable progress in completing response actions ordered or directed by the cabinet, then the cabinet may bring an action to compel performance or may take appropriate response actions and assess the responsible person three (3) times the costs incurred by the cabinet.

(17) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

(18) If cleanup activities have occurred at a hazardous substance site, then the property owner shall record with the county clerk an affidavit containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste, the location and description of the wastes disposed and removed from the site, and a risk assessment concerning waste residues remaining on-site prepared by the responsible party and approved by the cabinet.

Section 2. KRS 224.877 is amended to read as follows:

(1) As used in this section:

(a) "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(b) "Hazardous substance" means*:*

1. Any commercial chemical designated pursuant to the clean water act, section 307(a) and 311 (b)(4);

2. Any hazardous air pollutant listed pursuant to the clean air act, section 112;

3. Any hazardous waste under KRS Chapter 224; and

4. Any imminently hazardous chemical substance or mixture listed pursuant to the toxic substance control act, section 7.

This definition does not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas, nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste [~~any substance or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive~~].

(c) "Preventive measures" mean the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan.

(d) "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal clean water act—(P.L. 92-500), as amended.

(2) The cabinet shall promulgate regulations designating the hazardous substances subject to the provisions of this section.

(3) Persons possessing or controlling a hazardous substance shall immediately notify the cabinet of any discharge which exceeds the limits permitted by law. Notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making such a notification in any criminal proceeding.

(4) Persons having possession of or control over a hazardous substance being discharged or who caused the discharge shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge into the air, lands or waters of the Commonwealth.

(5) The cabinet shall be the lead agency for hazardous substance emergency spill response and, after consultation with other affected federal, state and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the discharge of hazardous substances. The contingency plan shall:

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land and waters of the Commonwealth caused by the discharge of hazardous substances;

(b) Include containment, cleanup and disposal procedures;

(c) Provide for restoration of the lands or waters affected to the satisfaction of the cabinet;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing and disposing of discharged hazardous substances.

(6) The cabinet shall have the authority, power and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual costs expended in response to an environmental emergency. Except as provided in paragraph (b), this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof or the amount of liability of any person;

(b) Notwithstanding paragraph (a), recover its costs incurred in the removal of oil or hazardous substances discharged in violation of section 311(b)(3) of the federal clean water act from any person liable therefor under section 311 of the federal clean water act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the discharge is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance or take any other emergency action which it deems appropriate under the circumstances, including, but not limited to, issuance of an emergency order as provided in KRS 224.071 to the person possessing, controlling or responsible for the discharge of the hazardous substance as necessary for the protection of the environment and public health, safety or welfare;

(d) Any duly authorized officer, employe or agent of the cabinet may upon notice to the owner or occupant enter any property, premises or place at any time for the purposes of this section, if such entry is necessary to prevent damage to the air, land or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(7) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to section 311 of the federal clean water act (P.L. 92-500) as amended, but rather shall be used to provide the Commonwealth with a mechanism for more immediate response to emergencies resulting from the discharge of hazardous substances.

Section 3. KRS 224.864 is amended to read as follows:

(1) The cabinet shall promulgate regulations which establish standards for the generators of hazardous waste requiring such generators to do the following:

(a) Compile and maintain such information and record keeping regarding the quantities of hazardous waste generated, characteristics and composition of such waste and disposition of hazardous waste generated;

(b) Utilize proper labeling and containerization of hazardous waste as required by the cabinet;

(c) Utilize a manifest for each shipment of hazardous waste and assure that the facility to which the waste is designated is a permitted facility;

(d) Provide information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of hazardous waste;

(e) Keep all records and copies of manifest readily available for review and inspection by the designated representative of the cabinet;

(f) Retain all records and manifest copies for a minimum of three (3) years or as required by the cabinet;

(g) Compile a periodic report of hazardous waste generated, stored, transferred, treated, disposed or transported for treatment, storage, or disposal as required by the cabinet*;*

(h) Provide the report required in paragraph (g) of this subsection to the county judge/executive of the county or urban-county government within which the waste site or facility which will receive waste from the generator is located and to the county judge/executive of the county or urban-county government within which the generator is located in order that the county judge/executive may make the report available to the county law enforcement and emergency services for emergency planning purposes.

(2) Any person who generates waste in this state shall make a determination as to whether or not such waste is hazardous pursuant to criteria promulgated by the cabinet, and any generator of hazardous waste shall certify that all information required in notices or reports to the cabinet or information provided on the manifest document is factual.

(3) The cabinet shall promulgate regulations specifying the criteria by which wastes may be determined to be hazardous and based on use of these criteria maintain and update a list of wastes identified as hazardous wastes which shall be subject to the hazardous waste management provisions of KRS 224.862 to 224.874. The criteria and lists promulgated by the cabinet shall be identical to any such criteria and lists proposed or promulgated by the U. S. environmental protection agency pursuant to the resource conservation and recovery act of 1976, as amended (PL 94-580). In providing for the management of hazardous waste, the cabinet shall establish classes or categories of hazardous waste reflecting the relative degree of hazard consistent with P.L. 94-580 and regulations issued pursuant thereto. Any person generating any substance which either meets the criteria or is identified as hazardous waste shall within ninety (90) days of promulgation of the regulation so notify the cabinet.

Section 4. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876*(7)*[~~(6)~~], special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. Other wastes may be designated special wastes by the cabinet.

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 and the provisions of KRS 224.896, 224.897 and 224.2201 to 224.2215 but may be regulated by the cabinet consistent with the resource conservation and recovery act of 1976, as amended (PL 94-580) and regulations issued pursuant thereto unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.866 but shall not be subject to the requirements of KRS 224.855(5).

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.864, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350.

(d) The cabinet may promulgate special waste regulations that recognize the distinct differences between the category of special wastes and other hazardous and solid wastes due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, record keeping, reporting, treatment, storage and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864(3) but may be regulated by the cabinet consistent with the resource conservation and recovery act of 1976, as amended (PL 94-580) and regulations issued pursuant thereto.

The Committee Substitute to HB 428 is as follows:

HB 428, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.876 is amended to read as follows:

(1) The general assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the general assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The natural resources and environmental protection cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. *The provisions of KRS 45.700 to 45.720 may be suspended by the cabinet if necessary to respond to an environmental emergency.*

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) *Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where* [~~Provide adequate testing, planning, contracting for removal, and cleanup of abandoned hazardous waste sites in all situations and to the extent that~~] responsible parties are economically or otherwise unavailable to properly address the problem *and* [~~when~~] the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) *The cabinet shall have the authority to finance the non-federal share of the cost for clean up of sites under the comprehensive environmental response, compensation and liability act of 1980, (public law 96-510).*

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. *Any expenditures recovered shall be placed in the hazardous waste management fund.*

(6)[~~(5)~~] It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(7)[~~(6)~~] There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that *no assessment shall be levied against* generators *for any quantity* of "special wastes" *or* [~~and retailers who generate~~] waste oil [~~shall be exempt from said assessment~~]. The assessment shall be reported and paid to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a report or return in such form as the revenue cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon said business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that the reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal monies are available to carry out the duties imposed by subsection (3) of this section the assessment shall cease to be levied and collected until such time as federal monies are no longer available to the Commonwealth for said purposes. The assessment shall be charged against generators of hazardous waste until June 30, *1988* [~~1986~~], and after such date no further hazardous waste management assessment shall be charged against generators.

(8)[~~(7)~~] The assessment on generators shall be determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half of the amount as would be assessed for off-site treatment and disposal except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.

(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents ($.02) per gallon initially, and shall increase by one cent ($.01) annually up to five cents ($.05) per gallon in 1983 and remain at five cents ($.05) thereafter if the waste is liquid, or two dollars and fifty cents ($2.50) per cubic yard if the waste is solid. Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet.

(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent ($.01) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid.

(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(9) Except for waste brought into the state by a company affiliated with the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8)(a) through (d) of this section. The facility shall remit the assessment to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a return as the revenue cabinet shall prescribe.

(10)[~~(8)~~] If any generator *or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section* fails or refuses to file a return or furnish any information requested in writing by the cabinet, the revenue cabinet may, from any information in its possession, make an estimate and issue an assessment against such generator *or hazardous waste facility* and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11)[~~(9)~~] If any generator *or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section* fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the revenue cabinet, then, unless it is shown to the satisfaction of the revenue cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the revenue cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12)[~~(10)~~] If the assessment imposed by this chapter, whether assessed by the revenue cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the revenue cabinet.

(13)[~~(11)~~] There is hereby created within the state treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. *The fund shall be deposited in an interest bearing account.* The revenue cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the state treasury shall be deposited in the hazardous waste management fund. When the state treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the state treasurer certifies to the revenue cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000).

(14)[~~(12)~~] Upon request of the secretary, monies accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, monies from the fund shall not be used when federal monies are available to carry out said duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal monies.

(15) If any person, responsible for a release or threatened release of a hazardous substance, fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, then the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(16) If cleanup activities have occurred at a hazardous substance site, then the property owner shall record with the county clerk an affidavit containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste.

Section 2. KRS 224.877 is amended to read as follows:

(1) As used in this section:

(a) "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(b) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive.

(c) "Preventive measures" mean the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan.

(d) "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal clean water act—(P.L. 92-500), as amended.

(2) The cabinet shall promulgate regulations designating the hazardous substances subject to the provisions of this section, *provided that the regulations shall not designate as hazardous any substance that is not a hazardous substance under the federal comprehensive environmental response compensation and liability act.*

(3) Persons possessing or controlling a hazardous substance shall immediately notify the cabinet of any discharge which exceeds the limits permitted by law. Notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making such a notification in any criminal proceeding.

(4) Persons having possession of or control over a hazardous substance being discharged or who caused the discharge shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge into the air, lands or waters of the Commonwealth.

(5) The cabinet shall be the lead agency for hazardous substance emergency spill response and, after consultation with other affected federal, state and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the discharge of hazardous substances. The contingency plan shall:

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land and waters of the Commonwealth caused by the discharge of hazardous substances;

(b) Include containment, cleanup and disposal procedures;

(c) Provide for restoration of the lands or waters affected to the satisfaction of the cabinet;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing and disposing of discharged hazardous substances.

(6) The cabinet shall have the authority, power and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual costs expended in response to an environmental emergency. Except as provided in paragraph (b), this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof or the amount of liability of any person;

(b) Notwithstanding paragraph (a), recover its costs incurred in the removal of oil or hazardous substances discharged in violation of section 311(b)(3) of the federal clean water act from any person liable therefor under section 311 of the federal clean water act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the discharge is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance or take any other emergency action which it deems appropriate under the circumstances, including, but not limited to, issuance of an emergency order as provided in KRS 224.071 to the person possessing, controlling or responsible for the discharge of the hazardous substance as necessary for the protection of the environment and public health, safety or welfare;

(d) Any duly authorized officer, employe or agent of the cabinet may upon notice to the owner or occupant enter any property, premises or place at any time for the purposes of this section, if such entry is necessary to prevent damage to the air, land or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(7) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to section 311 of the federal clean water act (P.L. 92-500) as amended, but rather shall be used to provide the Commonwealth with a mechanism for more immediate response to emergencies resulting from the discharge of hazardous substances.

Section 3. KRS 224.864 is amended to read as follows:

(1) The cabinet shall promulgate regulations which establish standards for the generators of hazardous waste requiring such generators to do the following:

(a) Compile and maintain such information and record keeping regarding the quantities of hazardous waste generated, characteristics and composition of such waste and disposition of hazardous waste generated;

(b) Utilize proper labeling and containerization of hazardous waste as required by the cabinet;

(c) Utilize a manifest for each shipment of hazardous waste and assure that the facility to which the waste is designated is a permitted facility;

(d) Provide information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of hazardous waste;

(e) Keep all records and copies of manifest readily available for review and inspection by the designated representative of the cabinet;

(f) Retain all records and manifest copies for a minimum of three (3) years or as required by the cabinet;

(g) Compile a periodic report of hazardous waste generated, stored, transferred, treated, disposed or transported for treatment, storage, or disposal as required by the cabinet*;*

(h) Provide the report required in paragraph (g) of this subsection to the county judge/executive of the county or urban-county government within which the waste site or facility which will receive waste from the generator is located and to the county judge/executive of the county or urban-county government within which the generator is located in order that the county judge/executive may make the report available to the county law enforcement and emergency services for emergency planning purposes.

(2) Any person who generates waste in this state shall make a determination as to whether or not such waste is hazardous pursuant to criteria promulgated by the cabinet, and any generator of hazardous waste shall certify that all information required in notices or reports to the cabinet or information provided on the manifest document is factual.

(3) The cabinet shall promulgate regulations specifying the criteria by which wastes may be determined to be hazardous and based on use of these criteria maintain and update a list of wastes identified as hazardous wastes which shall be subject to the hazardous waste management provisions of KRS 224.862 to 224.874. The criteria and lists promulgated by the cabinet shall be identical to any such criteria and lists proposed or promulgated by

the U. S. environmental protection agency pursuant to the resource conservation and recovery act of 1976, as amended (PL 94-580). In providing for the management of hazardous waste, the cabinet shall establish classes or categories of hazardous waste reflecting the relative degree of hazard consistent with P.L. 94-580 and regulations issued pursuant thereto. Any person generating any substance which either meets the criteria or is identified as hazardous waste shall within ninety (90) days of promulgation of the regulation so notify the cabinet.

Section 4. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876*(7)*[~~(6)~~], special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. Other wastes may be designated special wastes by the cabinet.

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 and the provisions of KRS 224.896, 224.897 and 224.2201 to 224.2215 but may be regulated by the cabinet consistent with the resource conservation and recovery act of 1976, as amended (PL 94-580) and regulations issued pursuant thereto unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.866 but shall not be subject to the requirements of KRS 224.855(5).

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.864, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350.

(d) The cabinet may promulgate special waste regulations that recognize the distinct differences between the category of special wastes and other hazardous and solid wastes due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, record keeping, reporting, treatment, storage and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864(3) but may be regulated by the cabinet consistent with the resource conservation and recovery act of 1976, as amended (PL 94-580) and regulations issued pursuant thereto.

The Committee Amendment No. 1 to the Committee Substitute to HB 428 is as follows:

Amend printed copy of HCS for HB 428:

beginning on page 15, line 14, by inserting the words "*chief executive officer of an*" before "*urban county government*"; and

on page 15, line 17, by inserting the words "*chief executive officer of an*" before "*urban county government*"; and

on page 15, line 19, by inserting the words "*chief executive officer*" before "*may*".

The Committee Amendment No. 2 to the Committee Substitute to HB 428 is as follows:

Amend printed copy of HCS for HB 428:

on page 9, line 17, by deleting the words "*property owner*" and adding in their place "*cabinet*"; and

on page 9, line 18, by deleting the word "*with*" and replacing it with "*in the office of*";

also in line 18, by deleting the words "*an affidavit*" and replacing them with "*in the county in which a waste site is situated a notice*"; and on page 9, line 21, after the word "*waste*" add "*and that further information on the hazardous waste site may be obtained from the cabinet.*"

HCR 5, A CONCURRENT RESOLUTION requesting the United States Congress to investigate coal imports and to restrict such imports as appropriate.

WHEREAS, by 1990 imported coal may displace approximately 17 million tons of U.S. produced coal from domestic coal markets with the result of the potential loss of 8,000 coal-related jobs; and

WHEREAS, foreign coal is priced at between 25 and 55 dollars a ton giving imported coal a price only 52% to 87% of domestic coal prices; and

WHEREAS, increased imported coal purchases would particularly have an adverse effect on the coal producing states of Kentucky, West Virginia, Montana, and Wyoming, and Kentucky alone is estimated to lose 2 million tons of production and nearly 2,000 jobs; and

WHEREAS, there are many factors creating this price advantage for foreign coal such as the strength of the U.S. dollar, rail rates, state utility, regulatory commission practices, and, perhaps the most important, the overseas costs of capital and foreign tax practices and subsidies;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

(1) That the United States Congress is urged to investigate the circumstances creating price advantages for foreign coal producers and, should any factors be revealed which give foreign producers an unfair competitive edge, take appropriate measures, not the least of which should be an import tariff, to eliminate that unfair advantage.

(2) That copies of this resolution shall be mailed to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives and to the members of the Kentucky Congressional delegation.

SB 21, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.110 is amended to read as follows:

(1) The board of miner training, education, and certification shall not admit any applicant for [~~mine inspector,~~] electrical inspector, mine safety instructor, mine foreman, assistant mine foreman, or fire boss to take an examination given by it unless the applicant has the experience required by this chapter, and until the applicant has presented to the examiner at the time of registration for the examination a U. S. postal money order or certified check in the amount of twenty-five dollars ($25.00). *An applicant for the board's examination for mine inspector shall likewise verify that he has the experience required by this chapter and shall present to the examiner at the time of registration for such examination a U.S. postal money order or certified check in the amount of fifty dollars ($50.00). All such money orders or certified checks required herein* [~~The money order~~] shall be made payable to the state treasurer, Frankfort, Kentucky.

(2) All money paid to the state treasurer for licenses and fees required by this chapter shall be for the sole use of the department and shall be in addition to any monies appropriated by the general assembly for the use of the department.

(3) The board may refuse to examine any applicant who cannot readily understand the written English language or cannot express himself intelligently in English, or who is obviously intoxicated.

SB 24, AN ACT relating to fire prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 149.400 TO 149.405 IS CREATED TO READ AS FOLLOWS:

(1) Without limiting the general authority granted to a county by KRS 67.083 and the general authority granted to a city by KRS 82.082, a city or county may enact an ordinance banning all open burning during periods of extraordinary forest fire hazard or fire occurrence. Such ordinance may authorize the implementation of such a ban by executive order of the chief executive officer upon notice by the division of forestry that a period of extraordinary forest fire hazard or fire occurrence exists.

(2) Any ordinance promulgated by a city or county pursuant to subsection (1) of this section may establish penalties for violation of the ordinance not to exceed the penalties set forth in KRS 149.990(2).

(3) Any ordinance promulgated by a city or county pursuant to subsection (1) of this section may be enforced by the promulgating body, or by the cabinet, and referred to the appropriate county or Commonwealth attorney for prosecution.

The Committee on State Government reported HB 1, HB 67, HB 213 with Committee Amendment attached thereto, HB 229, HB 283, HB 313, HB 348, HB 372, HB 381, HB 382 with Committee Amendment attached thereto, HB 399 with Committee Amendment attached thereto, SB 29, SB 63, and SB 142 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT proposing to amend the Constitution of Kentucky relative to officers of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 160 of the Constitution of Kentucky be amended to read as follows:

The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: Provided, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified, and of members of legislative boards, two years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive *of any city of the first or second class, after the expiration of two successive terms of office to which he has been elected under this Constitution shall be eligible for the succeeding term. No* [~~or~~] fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. "Fiscal officer" shall not include an Auditor or Assessor, or any other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled.

Section 2. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 67,AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

WHEREAS, the electorate of the Commonwealth of Kentucky, at the regular election on November 3, 1959, approved the payment of a cash bonus to qualified veterans of the Spanish American War, World War I, World War II, and the Korean conflict as an expression of appreciation for their service to the United States of America; and

WHEREAS, many citizens of the Commonwealth served at great personal sacrifice in the armed forces of the United States during the Viet Nam conflict; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky finds it appropriate to express to those citizens the gratitude of all of the citizens of the Commonwealth by the payment of a bonus to all veterans qualified hereunder who served in the armed forces of the United States in the Viet Nam conflict;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

A bonus shall be paid by the Commonwealth of Kentucky in the amounts and to the persons determined in accordance with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Center" means the Kentucky center for veterans' affairs, established in KRS 36.330;

(2) "Administrator" means the manager of the Kentucky center for veterans' affairs;

(3) "Armed forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard, including the reserve components thereof on active duty, and shall not include the merchant marine;

(4) "Qualified Viet Nam veteran" means any person who:

(a) Served in the armed forces of the United States for a period of ninety (90) days or more (exclusive of time spent AWOL, or in penal confinement as a result of a sentence imposed by court-martial), for any period between August 6, 1964 and May 7, 1975;

(b) Has been released, separated or discharged from the armed forces under honorable conditions;

(c) was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto;

(d) Served at least ninety (90) days active duty, unless the duty was earlier terminated for medical reasons determined to be service-connected by the armed forces or the veterans' administration;

(e) Has served during the period of eligibility as evidenced by separation papers or discharge from the United States armed forces;

(f) If living, was a resident of the Commonwealth on December 31, 1985; or if deceased at that time, was survived by a beneficiary who was a resident of the Commonwealth on December 31, 1985, and

Provided further, that if the legal spouse of a qualified veteran was a legal resident of Kentucky on December 31, 1983, or if the qualified veteran was unmarried, his surviving mother or father were legal residents of Kentucky on December 31, 1985, such shall constitute a rebuttable presumption that the veteran lived in Kentucky on that date.

(5) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at such time of entry. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the department of defense of the United States, or any official record thereof in the files of the veterans' administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced or destroyed, or that an

authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(6) "Resident," in any context other than as in subsection (5) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate;

(7) "Beneficiary" means in this order, widow, child or children (sharing equally), mother, father, and no other;

(8) (a) "Widow" means a woman who was the wife of a Viet Nam veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female Viet Nam veteran at the time of her death;

(9) "Child" means a person:

(a) Who is under the age of eighteen (18); or

(b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a step-child who is a member of a Viet Nam veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

(10) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified Viet Nam veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(11) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified Viet Nam veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(12) "In the continental United States" means any place in the District of Columbia and the States of the United States which are on the North American continent, exclusive of Alaska;

(13) "Outside the continental United States" means any place elsewhere than as defined in subsection (12) of this section;

(14) "Bonus" and "Viet Nam veteran's bonus" mean the compensation authorized by this Act;

(15) "Bonus claim" means a claim or potential claim for a Viet Nam veteran's bonus; and

(16) "Claimant" means one who seeks to obtain payment of a bonus claim.

SECTION 3. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No bonus shall be paid to any member of the armed forces of the United States who did only civilian work at civilian pay, who has received from another state a bonus or compensation of a like nature as is provided by this Act, or who received the Kentucky veterans' bonus under the provisions of Chapter 48, Acts of the Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Every person determined by the administrator to be a qualified Viet Nam veteran shall be paid the sum of fifteen dollars ($15.00) for each month and major fraction of a month of active duty, in the armed forces in the Continental United States, not to exceed in all the sum of three hundred dollars ($300); and the sum of twenty-five dollars ($25.00) for each month and major fraction of a month of such service outside the Continental United States, subject to an aggregate limit for all service in the sum of five hundred dollars ($500). Any qualified Viet Nam veteran who was medically evacuated from Viet Nam shall receive the sum of five hundred dollars ($500.00), this sum to be in lieu of any other bonus for which said veteran may qualify under the provisions of this Act.

(2) If a person determined to have been a qualified Viet Nam veteran shall be deceased at the time payment of the bonus would otherwise be made to him, the amount of his bonus shall be paid to the first surviving beneficiary, if any, according to the order of priority defined in Section 2(7) of this Act and if there be no surviving beneficiary, the bonus of such veteran shall lapse, and no payment thereof shall be made.

(3) A beneficiary (as defined in Section 2, subsections (7), (8), (9), (10), and (11) of this Act) of a person killed in the line of duty while serving in the armed forces of the United States during the period of eligibility, or who died of service-connected injury sustained while so serving, and who would otherwise have qualified for the bonus provided in subsection (1) of this section, shall be paid three hundred dollars ($300) if no part of the total service during the period was served outside the Continental United States or five hundred dollars ($500) if any part of the total service during the period was served outside the Continental United States. The provisions of subsection (1) of this section and the minimum period of service for entitlement to a bonus as established by Section 2(4) of this Act shall not apply to these beneficiaries. However, this exception does not waive the respective maximums of three hundred dollars ($300) or five hundred dollars ($500) for each veteran, person killed in the line of duty while on active duty in the armed forces, or person who died as a result of service-connected injury sustained while on active duty in the armed forces. Payment shall be made to a beneficiary in the order of priority defined in Section 2(7) of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The center for veterans' affairs shall administer the provisions of this Act and shall:

(1) Prepare and make available forms on which applications for the bonus shall be made;

(2) Employ such additional personnel as may be required for orderly and expeditious administration;

(3) Promulgate all rules and regulations required for the effective administration of this Act; and

(4) Report annually to the governor and the legislative research commission within sixty (60) days after the end of each fiscal year during its administration of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

All applications for the bonus shall be submitted to the administrator, in writing, upon forms made available by the center, and shall be accompanied by such documentary evidence as the center may by regulation prescribe. Every application shall be certified under the penalties of perjury, and shall contain representations of the claimant (or, if he shall have been adjudged incompetent, or be an infant, of his committee or guardian), that:

(1) The facts therein stated are true to the best of his knowledge and belief;

(2) All documents submitted in support of the application are believed by the claimant to be genuine originals or copies, as the case may be, and that the claimant has no knowledge that the document has been superseded or cancelled;

(3) The claimant has not received from another state a bonus or compensation of a like nature as provided by this Act;

(4) The claimant has not received the Kentucky veterans' bonus provided under Chapter 48, Acts of the

Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly;

(5) The claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing and tendering the application; and

(6) The claimant has knowledge of the final and forfeiture provisions of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) No application shall be filed with or sent to the administrator before the 1st day of September, 1986.

(2) No application may be filed with or sent to the administrator after the thirty-first day of March, 1988; but if an application be sent by mail, the administrator shall receive it if the post-mark on the envelope shows date and time of mailing at or before midnight, central standard time, on or before the thirty-first day of March, 1988.

(3) Applications tendered to the administrator otherwise than as provided in subsections (1) and (2) of this section shall not be eligible for consideration under this Act and shall not be accepted. Each such application received by mail shall be returned to the sender, if a return address be given, together with notification of the reason for its return.

SECTION 8. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No claimant shall be entitled to an oral hearing as a matter of right; but the administrator may in his discretion order a hearing in any case presenting unusual circumstances, or where it appears that documentary evidence of any material fact cannot reasonably be obtained, or where the claim cannot otherwise adequately be determined. The administrator may investigate any matter which in his judgment is not adequately proven, or which shows or raises an inference of fraud; and may require submission of supplementary proof.

SECTION 9. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

A hearing ordered by the administrator shall be conducted by a single person designated by the administrator. Formalities of judicial procedure and proof may be waived. No stenographic transcript of the proceedings shall be made except when specifically authorized by the administrator, and in the absence of such authorization the hearing officer shall submit to the administrator his written summary of the proceedings. There shall be no right to written or oral argument; but the administrator may, in his discretion, authorize either.

SECTION 10. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The burden of proving to the satisfaction of the administrator that a bonus is payable shall in all cases be upon the claimant.

SECTION 11. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The administrator shall make prompt determination that each application is approved or disapproved for payment of a bonus; and if approved, shall determine the amount to be paid according to the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is disapproved, the administrator shall send a notice of such decision to the claimant by mail at the address shown in the application. The notice shall be in such form as the administrator may determine, shall contain a designation of the reason for disapproval, shall inform the claimant of his right to seek review, shall have attached such form of request for review as the administrator may prescribe, and shall give information as to procedure for review.

(2) Application for review of the administrator's disapproval shall be made only on the forms prescribed and furnished by the administrator; and shall be received in the office of the administrator by the closing hour in

the thirtieth (30th) day after the day upon which the notice of the disapproval is mailed by the administrator, or be forever barred.

(3) Upon receiving an application for review, the administrator shall transmit the same, together with the original application and all papers in the case, to the board of review, hereinafter created.

(4) The board of review shall promptly consider the same evidence which was available to the administrator, and shall promptly enter in the case file its decision either finally affirming the administrator's decision, or finally determining the claim and the amount thereof.

(5) The board of review shall send a notice of its decision to the claimant by registered mail, and shall return the case file to the administrator. The decision of the board of review shall be a final determination of the claim shown in the application.

SECTION 13. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

If the administrator shall disapprove any claim, or if the decision of the board of review be affirmance of the administrator's disapproval of the claim:

(1) No payment of a bonus shall be made,

(2) The administrator, upon receiving advice of the decision, shall note the same in a permanent book or record in his office; shall forthwith return to the claimant the copies of any official records submitted in support of the application; shall finally close the claim file; and may destroy all other papers except the application.

SECTION 14. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of finance and administration the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the commissioner of revenue, who shall promptly ascertain from the records of his department whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the commissioner of revenue shall within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of finance and administration; and if no advice of tax delinquency is received by the secretary of finance and administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of this Act, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the state treasury for a check in payment.

(c) Upon receipt of such warrant the state treasurer shall issue a check in accordance therewith payable from funds made available in accordance with this Act, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of finance and administration shall, within the allowed time, receive advice from the commissioner of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of finance and administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days

after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the commissioner of revenue of the amount set off against the bonus, which advice shall be noted by the commissioner of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the commissioner shall draw a warrant upon the state treasury for a check in the amount of the remainder, and upon receiving such check from the state treasurer shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the commissioner of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the commissioner of revenue.

SECTION 15. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Claims for payment of a bonus shall not be assignable before or after approval thereof; and any attempted or purported assignment received by or tendered to any officer of the Commonwealth shall be void, need not be acknowledged or returned, and may be disregarded.

(2) Payments of the bonus shall be exempt from all taxation by the Commonwealth, its political subdivisions and taxing districts.

(3) No claim for payment of a bonus and no payment made by the Commonwealth under this Act shall give rise to a cause of action against the Commonwealth or any of its officers, agents, or employes, and no claim for payment shall be subject to attachment, levy, garnishment or seizure by or under any legal or equitable process whatever; but this provision shall not extend exemption from legal process to the proceeds of any bonus payment after the same has been received from the Commonwealth.

(4) The Commonwealth does not consent to be sued in any court with regard to any matter connected with or arising out of claims for payment of the bonus herein authorized.

SECTION 16. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Viet Nam Veterans' Bonus Board of Review." The governor shall designate a chairman and a secretary from among the membership.

(2) Three (3) members and no more shall constitute a board of review, and shall by concurrence of two (2) members decide any claim which comes before the board in the manner provided in this Act. The chairman of the board shall designate three (3) members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated fifty dollars ($50.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eighteen (18) cents per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three (3) members designated for that purpose. In every case the board shall either affirm the decision of the administrator, or determine that a Viet Nam veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made

shall be signed by at least two (2) of the three (3) members designated to decide the claim; and upon concurrence of two (2) members a decision shall be final and not subject to reconsideration.

(5) When, after April 1, 1988, the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the governor in writing. The governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

SECTION 17. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person who charges or collects or attempts to charge or collect either directly or indirectly, any fee or other compensation for assisting in any manner a person seeking to obtain payment of a bonus under this Act, shall be fined not more than five hundred dollars ($500) or imprisoned in the county jail for a term of not more than six (6) months, or both; but this provision is not intended to prohibit:

(1) Collection by public officers of statutory fees for providing authenticated copies of public records, or

(2) The giving of assistance or advice to claimants by any bona fide veterans' organization, civic organization, institution, public or private body, or person, through one (1) or more persons compensated from the funds of such organization, institution, or public or private body or person, if no fee or charge therefor is collected from the asserted claimant.

SECTION 18. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Whoever makes any false or fraudulent statement of a material fact in any application, affidavit, certificate or document submitted or tendered for the purpose of obtaining payment of a bonus under this Act, shall be fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for a term of not more than two (2) years, or both.

SECTION 19. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person conspiring to obtain payment of a fraudulent claim for a bonus under this Act, or conspiring to defraud one who receives payment or has a bona fide claim for payment of a bonus, shall be fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for not more than two (2) years, or both.

SECTION 20. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person convicted of any offense denounced in Sections 17, 18, and 19 of this Act shall forfeit his or her right, if any, to receive any payment authorized by this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Funds required for payment of the bonus authorized by this Act shall be deemed a necessary governmental expense and paid by the state treasurer upon approval of the finance and administration cabinet.

Section 22. There is hereby appropriated to the center for veterans' affairs, for fiscal year 1986-87, the sum of three hundred and fifty thousand dollars ($350,000) for use in the administration of this Act. The appropriated funds shall be paid from the general fund; any unexpended funds shall not lapse but shall be carried forward into fiscal year 1987-88.

HB 213, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.013 is amended to read as follows:

(1) There is created a financial institutions board. The board shall consist of *twelve (12)* [~~ten (10)~~] members appointed by the governor who shall serve terms of six (6) years, except the initial terms shall be established as hereafter provided. It is recommended that the board appointments made by the governor be selected from the following:

(a) Four (4) members selected from the banking industry regulated by the department with appropriate recognition as to bank size and geographic diversity;

(b) One (1) member selected from the broker/dealer securities industry regulated by the department;

(c) One (1) member selected from the credit union industry regulated by the department;

(d) One (1) member selected from the consumer finance or industrial loan industry regulated by the department;

(e) One (1) member selected from the savings and loan industry regulated by the department;

(f) *Three (3) members* [~~One (1) member~~] selected from the public at large who *are* [~~is~~] knowledgeable concerning financial institutions, but who *are not employes, officers or directors* [~~is not an employe, officer or director~~] of any financial institution; and

(g) The commissioner, who shall also serve as chairman of the board.

(2) All members of the board from the banking industry, securities industry, credit union industry, consumer finance, industrial loan industry or savings and loan industry shall be persons with practical experience in the industry so represented and currently serving at the executive level of that industry at the time of their appointment.

(3) At the first meeting of the board, a drawing by lot shall be conducted to determine the length of each original member's term. Initially, there shall be four (4) six-year terms, *five (5)* [~~three (3)~~] four-year terms, and two (2) two-year terms. Vacancies in the membership of the board shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(4) No member of the board, other than the commissioner, shall serve more than two (2) consecutive terms on the board.

(5) The board shall first meet at the call of the governor and thereafter as the board shall determine, but at least quarterly, at a time and place determined by the chairman. The board may elect other officers for the conduct of its business. A majority of board members shall constitute a quorum, and a decision shall require the majority vote of those present. Each board member shall have one (1) vote, and voting by proxy shall be prohibited.

(6) Board members shall receive one hundred dollars ($100) per diem for each board meeting which they attend and shall be reimbursed for other reasonable and necessary expenses incurred while engaged in carrying out the duties of the board.

(7) The board shall:

(a) Prepare and submit at the governor's request a list of candidates qualified to serve as commissioner and recommend to the governor a proposed salary for each nomination for commissioner;

(b) Recommend to the governor a proposed salary structure for other departmental staff in order to provide competitive salaries for recruitment and retention of staff;

(c) Receive and comment on various reports relating to the department and its activities as submitted to the board by the commissioner or the governor; and

(d) Review, consider and make recommendations to the commissioner on any matters referred to the board by the commissioner or the governor.

(8) In no event shall the board or its members interfere with the statutory duties of the commissioner whose decisions shall be governed by law.

Section 2. The General Assembly confirms the reorganization of the Financial Institutions Board by Executive Order 85-583, issued on August 2, 1985, to the extent it is not otherwise confirmed by this Act.

The Committee Amendment No. 1 to HB 213 is as follows:

Amend printed copy of HB 213:

On page 2, line 2, after the word "institutions," by inserting: "*the legislative process and consumer interests, two (2) of whom*"; and

On page 2, line 2, by placing brackets around and striking through the words "but who"; and

On page 4, lines 7 and 8, by deleting "to the extent it is not otherwise confirmed by this Act" and by inserting in lieu thereof the phrase "except as modified by subsection (1)(f) of Section 1 of this Act".

HB 229, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) There is created the North American international livestock exposition executive committee which shall be attached for administrative purposes to the North American international livestock exposition division within the state fair board. The membership of the committee shall consist of eleven (11) members as follows: two (2) members at-large appointed by the governor; the president of the state fair board; the commissioner of the department of agriculture; the dean of the University of Kentucky school of agriculture; and the chairpersons of the six (6) advisory subcommittees of the committee. The committee shall elect one (1) of its members to serve as chairperson. The terms of the members appointed by the governor shall be concurrent with that of the governor. The terms of the other members shall be concurrent with their respective, representative positions. The committee members shall receive no salary but shall be reimbursed for their expenses incurred in the performance of their duties in accordance with state regulations and such expenses shall be paid from agency receipts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The North American international livestock exposition executive committee shall have six (6) advisory subcommittees which shall provide advice and recommendations to the committee regarding exposition matters. These subcommittees shall be the dairy advisory subcommittee, the beef advisory subcommittee, the sheep advisory subcommittee, the swine advisory subcommittee, the equine advisory subcommittee, and the consultant advisory subcommittee. The livestock subcommittee memberships shall be determined by the respective dairy, beef, sheep, swine, and equine breed associations approved to participate at the exposition, except that no breed association shall appoint more than three (3) of its members to the appropriate subcommittee. The consultant advisory subcommittee membership shall be determined by invitation of the state fair board and shall be no more than eight (8) people who are experienced or knowledgeable in skills which would assist in the management of the exposition.

Section 3. The general assembly confirms the establishment of the North American International Livestock Exposition Executive Committee and its advisory subcommittees by Executive Order 84-581 to the extent it is not otherwise confirmed by this Act.

HB 283, AN ACT relating to personal service contracts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

Agreements with an individual to provide the services of executioner for the corrections cabinet shall not be subject to the provisions of KRS 45.700 through 45.720. The identity of an individual performing the services of executioner shall remain confidential and shall not be considered as public record for the purposes of KRS 61.870 through 61.884.

Section 2. Whereas it is necessary to protect the identity of persons employed as executioner for the Corrections Cabinet and whereas it is necessary to employ executioners immediately, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 313, AN ACT relating to existing facilities within municipalities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.045 is amended to read as follows:

(1) No municipality, in which there is located an existing electric, water or gas public utility plant or facility *or cable television service* shall construct or cause to be constructed any similar utility plant or any similar public utility *or cable television* facility duplicating such existing plant or facility or to obtain or acquire any similar [~~public utility~~] plant or facility other than by the purchase of the existing plant or facility or by the acquisition of such existing plant or facility by the exercise of the power of eminent domain.

(2) "Municipality" means any county, city, town, village and municipal corporation of any and every class in the Commonwealth of Kentucky, and any board, commission or agency thereof.

(3) All laws and parts of laws in conflict herewith to the extent of such conflict are repealed.

HB 348, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service, may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the state police retirement system, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member has *twenty-seven (27)* [~~thirty (30)~~] or more years of service at least fifteen (15) of which are current service; or

(e) The member has attained age fifty-five (55) and was an employe of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

Section 2. KRS 61.595 is amended to read as follows:

(1) Effective August 1, *1986* [~~1984~~], upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and *eight-tenths percent (1.8%)* [~~sixty-five hundredths percent (1.65%)~~] of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than $240 multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph (c), and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512).

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has *twenty-seven (27)* [~~thirty (30)~~] or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five (25) cents greater or less than the amount of the initial retirement payment.

Section 3. KRS 61.691 is amended to read as follows:

(1) Effective *July 1, 1986 and July 1, 1987* [~~January 1, 1985~~], a recipient of a retirement allowance under KRS *16.505* [~~16.510~~] to 16.652 and 61.510 to 61.705 and 78.510 to 78.852 shall have his retirement allowance increased by *four percent (4%)* [~~one dollar ($1) per month for each year of service accumulated prior to retirement. The increase is applicable only to recipients who began receiving benefits prior to August 1, 1984~~].

(2) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

Section 4. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, *1986* [~~1984~~], the member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *four-tenths percent (2.4%)* [~~thirty-five hundredths percent (2.35%)~~] of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the internal revenue code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS *16.505* [~~16.510~~] to 16.652 a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 5. KRS 61.560 is amended to read as follows:

(1) Each employe shall, commencing on *August 1, 1986* [~~July 1, 1966~~], contribute for each pay period for which he receives compensation *five percent (5%)* [~~four percent (4%)~~] of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections (10) and (11) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS *61.505* [~~61.510~~] through *61.705* [~~61.702~~] notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute *five percent (5%)* [~~four percent (4%)~~] of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employe for each and every payroll period the contribution payable by each such employe as provided in KRS *61.505* [~~61.510~~] to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS *61.505* [~~61.510~~] to 61.705.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe.

The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS *61.505* [~~61.510~~] to 61.705 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 6. KRS 78.610 is amended to read as follows:

(1) Each employe shall, commencing on *August 1, 1986* [~~July 1, 1966~~], contribute for each pay period, for which he receives compensation four *and twenty-five hundredths percent (4.25%)* [~~percent (4%)~~] of his creditable compensation. Any other provisions of KRS 78.510 through 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four *and twenty-five hundredths percent (4.25%)* [~~percent (4%)~~] of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employe for each and every payroll period subsequent to the date the county participated in the system, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employe contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

HB 372, AN ACT providing for a state fossil.

WHEREAS, it being common practice for other states to adopt state fossils; and

WHEREAS, Kentucky is blessed with abundant paleontological and archaeological material, of which the brachiopod constitutes a portion; and

WHEREAS, the brachiopod is of an extremely ancient race; and

WHEREAS, brachiopods are an abundant fossil throughout all regions of Kentucky, other fossils being less abundant or less wide-spread;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The brachiopod is named and designated as the state fossil of Kentucky.

HB 381, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section*; and* [~~.~~]

(b) The term "state employe" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the state board of education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, *and* major medical [~~and dental~~] insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employes. All state employes for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employes, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage *or prepaid dental plan coverage* over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(5)[~~(4)~~] If an employe moves his place of residence or employment out of the service area of a health maintenance organization *or of a prepaid dental plan organization,* under which he has elected coverage, into either the service area of another health maintenance organization *or prepaid dental plan organization* or into an area of the state not within a health maintenance organization service area *or prepaid dental plan service area,* such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization *or prepaid dental plan organization* into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6)[~~(5)~~] No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(7)[~~(6)~~] The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8)[~~(7)~~] The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, *prepaid dental plan organization coverage* and health maintenance organization coverage under the provisions of this section.

(9)[~~(8)~~] The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

HB 382, AN ACT relating to retirement credit for military service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) Any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employe eligible for retirement as prescribed in KRS 61.559 or any employe upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time as funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(6) *Any* [~~Upon retirement,~~ a] member *age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service* (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. *Payment shall be by lump sum, except that members may pay by installments. The minimum installment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. All member payments made prior to the calendar year of retirement shall be made in December.* The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

The Committee Amendment No. 1 to HB 382 is as follows:

Amend printed copy of HB 382:

on page 3, line 25, by deleting the word "*installments.*" and by substituting therefor the word "*increments.*"; and on page 3, line 25, by deleting the word "*installment*" and by substituting therefor the word "*increment*"; and on page 4, line 1, by deleting the word "*All*", and on page 4, line 2, by deleting all of line 2, and on page 4, line 3, by deleting the words "*retirement shall be made in December.*".

HB 399, AN ACT relating to medical benefits for retirees and dependents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky retirement systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky employes retirement system, county employes retirement system and state police retirement system. *The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.* The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employes group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employes having the same medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the state police retirement system as provided for in KRS 16.510 to 16.652, and each employer participating in the county employes retirement system as provided in KRS 78.510 to 78.852 and each employer participating in the Kentucky employes retirement system as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky retirement systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a state police retirement system member or a hazardous position employe, as defined in KRS 61.592, who becomes disabled in line of duty, as defined in KRS 16.505(20), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a state police retirement system member or a hazardous position employe as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(20), shall have the premium for the beneficiary and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems except service added to determine disability benefits shall not be counted as "months of service."

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse and dependents of a recipient who was a former member of one (1) or more of the three (3) retirement systems, and to the beneficiary where such beneficiary is receiving a retirement allowance, provided the premium for the spouse, dependent or beneficiary hospital and medical insurance is paid by payroll deduction from such retirement allowance or by another method. The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was a member of the general assembly and is receiving a retirement allowance based on general assembly service, of the Kentucky employes retirement system and determined to be in a hazardous position, of the county employes retirement system, and determined to be in a hazardous position or of the state police retirement system, or the beneficiary of such a member, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

The Committee Amendment No. 1 to HB 399 is as follows:

Amend printed copy of HB 399:

On page 1, line 15, by inserting after "*allowance*" and before the comma the words "*or by another method*".

SB 29, AN ACT relating to the presidential preference primary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 11 of this Act, "political party" means each political party that cast ten percent (10%) or more of the vote for governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) On the second Tuesday in March, in each presidential election year. the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections, except that the entire cost of a presidential preference primary shall be paid by the state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

To qualify to vote in a presidential preference primary in the Commonwealth a voter must register to vote in the same manner as prescribed in KRS Chapter 116. A voter shall vote only in the presidential preference primary of the political party for which he has declared a preference as required by KRS 116.055.

SECTION 4. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

The state board of elections shall convene in Frankfort on the last date prescribed by election law generally for filing nomination papers with the secretary of state prior to a primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those generally advocated and nationally recognized as candidates of the political parties for the office of President of the United States. Immediately upon completion of this requirement, the board shall transmit a list of all such nominees selected to the secretary of state and shall also release the list to the news media.

SECTION 5. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking the endorsement by a political party for the office of President of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than the last date prescribed by election law generally for filing nomination papers with the secretary of state prior to a primary.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member.

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

SECTION 6. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall forthwith contact each person who has been nominated by the state board of elections or by petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party, provided that he:

(a) Deposits with the secretary of state the sum required by Section 7 of this Act; and

(b) Forwards to the secretary of state a notice of candidacy form, to be supplied by the secretary of state, along with the written notification required by this section.

(2) Failure of a candidate to deposit the fee required by Section 7 of this Act and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

SECTION 7. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Before any candidate's name is placed upon the official ballot by the secretary of state for a presidential preference primary in the Commonwealth, the candidate must deposit with the secretary of state the sum of one thousand dollars ($1,000), which shall be refunded to the candidate by the secretary of state if the candidate receives three percent (3%) or more of the total vote cast in the presidential preference primary of his political party.

(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential preference primary of his party, the one thousand dollars ($1,000) deposit shall escheat to the Commonwealth and be placed in a special trust and agency fund to be used by the secretary of state to defray election expenses.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of Sections 6 and 7 of this Act on the official presidential preference primary ballot of their respective political parties. The secretary of state shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under Section 10 of this Act, but delegates representing these voters shall not be bound by the first ballot requirement of Section 9 of this Act.

(2) If no presidential candidates nominated by the board or by petition meet the requirements of Sections 6 and 7, then no presidential preference primary shall be held in the Commonwealth.

SECTION 9. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Upon completion of the official canvass of the results of the primary by the state board of elections, the secretary of state shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of Section 10 of this Act;

(2) The total vote received by each;

(3) A declaration that the results of the presidential preference primary, in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by Sections 1 to 11 of this Act as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under Sections 1 to 11 of this Act shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of such political parties.

SECTION 10. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The political parties in distributing authorized delegate votes among party candidates shall select one of the following methods of distribution:

(a) The candidates receiving the highest number of votes, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

1. The total vote received by the candidates qualifying under the provisions of Sections 1 to 11 of this Act and subsections herein shall, when combined, be equal to one hundred percent (100%);

2. Each such candidate shall share in the total percentage in direct proportion to the total vote received by him mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

3. Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; or

(b) The candidate receiving the highest number of votes cast by his political party shall be awarded a pro rata portion of the authorized delegate vote of his political party in compliance with the state party rules for that party.

(1) Each political party shall, on the first ballot at its national convention, cast this Commonwealth's vote for the candidates as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

SECTION 11. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee, no later than January 30 of each year in which such presidential primary shall be conducted, of the provisions contained herein relating to the automatic vote on the first ballot as required under Sections 1 to 11 of this Act.

Section 12. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) *A presidential preference primary shall be held on the date established by Section 2 of this Act. All other* primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 13. KRS 118.245 is amended to read as follows:

The candidate receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination. If two (2) or more persons are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. *This section does not apply to presidential primaries.*

Section 14. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have

violated, in the primary election, any provision of KRS chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines for any office to be voted for in the succeeding regular election.

(3) This section does not apply to presidential preference primary candidates.

SB 63, AN ACT relating to the Central Midwest Interstate Compact on Low-Level Radioactive Waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly concurs in and ratifies Executive Order 84-803, relating to Interstate Compacts, the Natural Resources and Environmental Protection Cabinet, and the Cabinet for Human Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Central Midwest Interstate Low-Level Radioactive Waste Compact is approved in the form as follows:

ARTICLE I. POLICY AND PURPOSE

There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1) providing the instrument and framework for a cooperative effort;

2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

3) protecting the health and safety of the citizens of the region;

4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radioactive waste than shallow-land burial facilities.

b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1) expeditious enforcement of federal rules, regulations and laws;

2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

b) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

c) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

d) "Eligible state" means either the State of Illinois or the Commonwealth of Kentucky.

e) "Extended care" means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

f) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

g) "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

h) "Host state" means any party state that is designated by the Commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

i) "Institutional control" means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

j) "Long-term liability" means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property,and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

k) "Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e(2) of the Atomic Energy Act of 1954.

l) "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

m) "Manifest" means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

n) "Party state" means any eligible state which enacts the compact into law and pays the membership fee.

o) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

p) "Region" means the geographical area of the party states.

q) "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

r) "Shallow-land burial" means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

s) "Site" means the geographic location of a facility.

t) "Source reduction" means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

u) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

v) "Storage" means the temporary holding of waste for treatment or disposal.

w) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

x) "Volume reduction" means those methods including, but not limited to biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

y) "Waste management" means the source and volume reduction, storage, transportation, treatment or disposal of waste.

ARTICLE III. THE COMMISSION

a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting members from each state eligible to be a host state, one voting member from any other party state, and an ex officio non-voting member who is a member of the County Board of or who is a County Commissioner of each host county. The Governor of each party state shall notify the Commission in writing of its members and any alternates.

b) Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership casts its vote in the affirmative.

c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d) The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any member or the presiding officer.

f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

g) The Office of the Commission shall be in the first state eligible to be a host state. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

i) The Commission may:

1) Enter into an agreement or contract with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. No person may use a regional facility for waste generated outside the region unless both a majority of the members of the Commission and all members from the host state in which any affected regional facility is located vote in favor of permitting such use. No person in the region may use a storage, treatment or disposal facility outside the region without prior Commission approval. No such agreement or contract shall be valid unless specifically approved by a law enacted by the legislature of the host state.

2) Approve the disposal of waste generated within the region at a facility other than a regional facility.

3) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

4) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

5) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

6) Suspend the privileges or revoke the membership of a party state.

j) The Commission shall:

1) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

2) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

3) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

4) Adopt an annual budget.

k) Funding of the budget of the Commission shall be provided as follows:

1) Each state, upon becoming a party state, shall pay $50,000 to the Commission which shall be used for the administrative costs of the Commission.

2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

A) be sufficient to cover the annual budget of the Commission; and

B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection.

l) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this Article.

m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

n) The Commission is not liable for any costs associated with any of the following:

1) the licensing and construction of any facility;

2) the operation of any facility;

3) the stabilization and closure of any facility;

4) the extended care of any facility;

5) the institutional control, after extended care of any facility; or

6) the transportation of waste to any facility.

o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Members of the Commission are not personally liable for actions taken by them in their official capacity.

p) Except as provided under paragraphs (n) and (o) of this Article, nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.

q) Any person aggrieved by a final decision of the Commission, which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

ARTICLE IV. REGIONAL MANAGEMENT PLAN

The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

a) Adopt procedures for determining, consistent with considerations of public health and safety, the type *and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.*

b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or underground injection well.

d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b) Other than the provisions of Article V(f), each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX(b) and IX(c). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III (i)(1).

c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III (i)(1).

d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to the regional facility for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and shall not be subject to the provisions of this compact.

ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

b) If all regional facilities required by the regional management plan are not developed pursuant to Section (a), or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

c) A party state shall not be selected as a host state for any regional facility unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

d) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

f) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

g) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

h) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region.

i) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.

j) A host state may establish a fee system for any regional facility within its borders. The fee system shall be responsible and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensure, operation, pre-closure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.

k) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

n) A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

o) The host state shall create an "Extended Care and Long-Term Liability Fund" and shall allocate sufficient fee revenues, received pursuant to Article VI(j), to provide for the costs of:

1) decommissioning and other procedures required for the proper closure of a regional facility;

2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility;

4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Section shall in no manner limit the financial responsibilities of the site operator pursuant to Article VI(p) and the party states, or any other states which contract to dispose of wastes at the regional facility, pursuant to Article VI(q).

p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(o) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

q) All party states, or any other states which contract to dispose of wastes at the regional facility, shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(o) and from the property and third-party liability insurance as set forth in Article VI(p). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability for such party state shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year.

ARTICLE VII. OTHER LAWS AND REGULATIONS

a) Nothing in this compact:

1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3) prohibits any storage or treatment of waste by the generator on its own premises;

4) affects any administrative or judicial proceeding pending on the effective date of this compact;

5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

6) affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as defined in 42 U.S.C. 2021; or

7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

8) requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

9) alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal for waste generated outside the region shall be allowed to dispose of such waste at a regional facility unless specifically approved by the Commission pursuant to the provisions of Article III(i)(1).

ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

c) The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.

d) Other than the special circumstances for withdrawal in Section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region pursuant to Article III(i)(1).

f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the Commission and to the governor of each party state. A state which withdraws from the compact under this Section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

ARTICLE IX. PENALTIES

a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b) Unless otherwise authorized by the Commission pursuant to Article III(i), after January 1, 1986 it is a violation of this compact;

1) for any person to deposit at a regional facility waste not generated within the region;

2) for any regional facility to accept waste not generated within the region;

3) for any person to export from the region waste which is generated within the region; or

4) for any person to dispose of waste at a facility other than a regional facility.

c) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

d) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

SB 142, AN ACT relating to payments in lieu of taxes by the Tennessee Valley Authority and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.895 is amended to read as follows:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty (30) cents.

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky revenue cabinet shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The revenue cabinet shall certify the payment due each taxing district to the finance and administration cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the revenue cabinet for franchise tax determination shall be excluded *along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment.* As used in said subsections "book value" means original cost *unadjusted for* [~~less accrued~~] depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after *September 30, 1985* [~~June 30, 1954~~] from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

Section 2. Whereas, payments made under the provisions of this Act may be prior to the normal effective date of legislation enacted during this session, an emergency is declared to exist, and this Act shall become effective upon its passage, and approval by the governor, and shall be retroactive to September 30, 1985.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: HB 435.

Judiciary-Criminal: HB 453.

Health and Welfare: HB 29, HB 369, HB 224, HB 494, HB 548.

Calendar

SJR 7, HB 466, HB 364, HB 163, HB 389, HB 402, HB 388, HB 489, and HB 452 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 220, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of the Floor Amendment No. 2 to HB 220. Agreed.

Representative Yates moved that HB 220, as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 18. (See February 6, 1986, roll call on HB 220)—Appendix A.)

HB 220, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which HB 220, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Floor Amendment No. 1 to HB 10. Agreed.

Representative Jensen moved that HB 10, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 5. (See February 6, 1986, roll call on HB 10—Appendix A.)

HB 10, as amended, was passed and the title agreed to.

Representative Jensen moved that the vote by which HB 10, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 104, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that SB 104 be passed.

Representative Lear moved the adoption of the Floor Amendment No. 4 to SB 104.

On the roll call the vote was: Yeas 31, Nays 60.

On the roll call the vote was yeas 31—Bendl, Brinkley, Bruce, Caldwell, Clarke, Cline, Cowan, Freibert, Guenthner, Handy, K. Harper, Hines, Holbrook, Holloway, Johnson, Kerr, Lear, Lefevers, LeMaster, Mack, McBee, McNutt, Moberly, Nett, Noe, Priddy, Richards, P. Richardson, Smith, Turner, Worthington. Nays 60— Allen, Arnold, Bennett, Blandford, Blevins, M. Brown, Burnette, Clapp, L. Clark, P. Clark, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Gedling, Gray, Gregory, Heleringer, Jensen, T. Jones, Keith, Layman, Lile, Little, Long, Lyne, Maggard, Mann, McElroy, Meyer, Napier, Noland, O'Brien, Overstreet, Pearman, Preston, Pritchett, Rapier, Rattliff, Reinhardt, B. Richardson, Riner, Rose, Scorsone, Seum, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Todd, White, Williams, Yates.

Floor Amendment No. 4 to SB 104 was rejected.

Representative Mann moved that SB 104 be passed.

Representative Guenthner moved the adoption of Floor Amendment No. 3 to SB 104.

On the roll call the vote was: Yeas 32, Nays 46.

On the roll call the vote was yeas 32—Bendl, Brinkley, F. Brown, Burch, Caldwell, Cline, Cowan, Curd, Farrow, Freibert, Guenthner, K. Harper, Hines, Holbrook, Holloway, Johnson, Kerr, Lear, Lefevers, LeMaster, Mack, McNutt, Moberly, Nett, Noe, Reinhardt, Richards, B. Richardson, Smith, Turner, Worthington, Yates. Nays 46—Allen, Bennett, Blevins, M. Brown, Burnette, L. Clark, P. Clark, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Gedling, Gray, Gregory, Handy, T. Jones, Layman, Lile, Little, Lyne, Maggard, Mann, McElroy, Meyer, Napier, Noland, O'Brien, Overstreet, Pearman, Preston, Pritchett, Rapier, Rattliff, Riner, Rose, Scorsone, Seum, Stewart, Stone, Strong, Stumbo, Thomas, White, Williams.

Floor Amendment No. 3 to SB 104 was rejected.

Representative Mann moved that SB 104 be passed.

On the roll call the vote was: Yeas 66, Nays 27. (See February 6, 1986, roll call on SB 104—Appendix A.)

SB 104 was passed and the title agreed to.

Representative Mann moved that the vote by which SB 104 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 346 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that HB 346 be passed.

On the roll call the vote was: Yeas 91, Nays 1—(See February 6, 1986, roll call on HB 346—Appendix A.)

HB 346 was passed and the title agreed to.

Representative Scorsone moved that the vote by which HB 346 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 347, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Substitute to HB 347. Agreed.

Representative Reinhardt moved that HB 347, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 6, 1986, roll call on HB 347—Appendix A.)

HB 347, by way of Committee Substitute, was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 347, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 422 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that HB 422 be passed.

On the roll call the vote was: Yeas 98, Nays 2. (See February 6, 1986, roll call on HB 422—Appendix A.)

HB 422 was passed and the title agreed to.

Representative Richards moved that the vote by which HB 422 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 107 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that SB 107 be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See February 6, 1986, roll call on SB 107—Appendix A.)

SB 107 was passed and the title agreed to.

Representative Meyer moved that the vote by which SB 107 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that HB 339 be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 608, by Representative R. Jones: AN ACT relating to telecommunicators.

HB 609, by Representative Clarke: AN ACT relating to transportation of pupils at the Kentucky School for the Blind and the Kentucky School for the Deaf.

HB 610, by Representative Morris: AN ACT relating to state government.

HB 611, by Representative Bennett: AN ACT relating to coronors.

HB 612, by Representatives Dawahare, Stumbo, P. Richardson, Bennett, Rose, Noe, Strong, Deskins, Blevins, Little, Maggard, Preston, White, Bruce, B. Richardson, Cyrus, Cline, Williams, Smith, Noland, Brinkley and Overstreet: AN ACT relating to low-cost housing.

HB 613, by Representative Ellington: AN ACT relating to crimes and punishments.

HB 614, by Representatives Noe and Mann: AN ACT relating to power equalization.

HR 71, by Representative Siler: A RESOLUTION recognizing the achievements of the men's basketball team of Cumberland College of Williamsburg, Kentucky.

Posting of Bills and Resolutions for Consideration.

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: HB 527, HB 549, HB 552, HB 570, HB 579.

Banking and Insurance: HB 544.

Judiciary-Criminal: HB 574.

Counties and Special Districts: HB 43, HB 339.

Report of Committees (Continued)

The Committee on Health and Welfare reported SB 98, with Committee Substitute attached thereto, HB 376, with Committee Amendment attached thereto and HB 477 with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 98, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) ''Secretary'' means the secretary for human resources.

(2) ''Cabinet'' means the cabient for human resources.

(3) ''Department'' means the department for social services.

(4) ''Child'' means any person who has not reached his eighteenth birthday.

(5) ''Dependent child'' means any child who is under improper care, control, or guardianship that is not due to the negligence of the parent or guardian, provided that the child is not an abused or neglected child.

(6) ''Abused or neglected child'' means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person who has the permanent or temporary care, custody or responsibility for the supervision of the child: inflicts or allows to be inflicted upon the child, physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse upon the child; willfully abandons or exploits such child; does not provide the child with adequate care and supervision; food, clothing and shelter; education; or medical care necessary for the child's well-being; provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This exception, however, shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(7) ''Adult adopted person'' means any person who is eighteen (18) years of age or older.

(8) ''Child-caring facility'' means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(9)[~~(8)~~] ''Child-placing agency'' means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption.

(10)[~~(9)~~] ''Child welfare worker'' means an employe of the cabinet designated as such by the secretary for human resources or social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, services to children.

(11)[~~(10)~~] ''Boarding home or foster parent'' as used in subsection (5) of KRS 199.603 means persons who board children held in custody by the cabinet.

(12)[~~(11)~~] ''Foster family home'' means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency.

(13)[~~(12)~~] ''Group home'' means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(14)[~~(13)~~] ''Institution'' means a child-caring facility providing care or maintenance for nine (9) or more children.

(15)[~~(14)~~] ''Family[~~-~~] rehabilitation home'' means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons.

Section 2. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Except where a *biological* [~~natural~~] parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has such information, to the adoptive parents and to the circuit court not later than the date of finalization of the adoption proceedings; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to such person. None of the information shall be made available if it is of such a nature that it would tend to identify the biological parents of such adopted person except as provided in Sections 3 and 4 of this Act.

Section 3. KRS 199.570 is amended to read as follows:

(1) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, *except that upon the written consent of the biological parents and upon written order of the circuit court all papers and records including all files and records of the circuit court during proceedings for termination of parental rights provided in KRS 199.615 shall be open for inspection to any adult adopted person who applies in person or in writing to the circuit court as provided in Section 4 of this Act.* No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of adoption. The clerk of the circuit court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(2) After entry of the adoption judgment, the clerk of the circuit court shall promptly report to the cabinet for human resources of Kentucky full information as called for on forms furnished by the cabinet for human resources, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the cabinet for human resources shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL—subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents and such other information deemed necessary in accordance with rules and regulations promulgated by the cabinet for human resources in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate when issued shall not contain the place of birth, hospital and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the cabinet for human resources shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the circuit court which issued the adoption order. The cabinet for human resources shall furnish to the clerks of the circuit courts the necessary forms to carry out the provisions of this section. In the event the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. In the event the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of such child's birth.

(5) If any judgment of adoption is reversed, modified or vacated in any particular, the clerk of the circuit court shall notify the cabinet for human resources of such reversal or modification and the effect of same, and thereupon such cabinet shall make such changes, if any, in its records as may be necessary by such reversal or modification.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records and to personal contact by the child when he becomes an adult. If consent is then given, it cannot later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the circuit court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) When any adult adopted person applies in person or in writing to the circuit court for authorization to inspect all papers and records pertaining to the adoption proceedings of such adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to

personal contact, the court may, if satisfied as to the identity of such adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(3) The circuit court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that said person has applied to the court for information identifying such biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may charge a reasonable fee not to exceed two hundred fifty dollars ($250) to the adult adopted person for making such a search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify such biological parents.

(4) The notification of the biological parents shall not be by mail and shall be by personal and confidential contact. The notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the circuit court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

(a) The nature of the information requested by the adult adopted person;

(b) The date of the request of the adult adopted person;

(c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the circuit court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;

(d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and

(e) The right of a biological parent to file an affidavit with the circuit court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

(5) The adult adopted person shall not be authorized to inspect the papers and records pertaining to his adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to such inspection.

(6) If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the circuit court, upon motion of the adult adopted person, may order that all papers and records of the cabinet for human resources and those of the circuit court pertaining to the adoption shall be open for inspection to such adult adopted person.

Section 5. The reviser of statutes shall whenever the phrases "natural parent" or "natural parents" appear in the Kentucky Revised Statutes change them so as to read "biological parent" or "biological parents."

The Committee Substitute to SB 98 is as follows:

SB 98, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources.

(2) "Cabinet" means the cabinet for human resources.

(3) "Department" means the department for social services.

(4) "Child" means any person who has not reached his eighteenth birthday.

(5) "Dependent child" means any child who is under improper care, control, or guardianship that is not due to the negligence of the parent or guardian, provided that the child is not an abused or neglected child.

(6) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person who has the permanent or temporary care, custody or responsibility for the supervision of the child: inflicts or allows to be inflicted upon the child, physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse upon the child; willfully abandons or exploits such child; does not provide the child with adequate care and supervision; food, clothing and shelter; education; or medical care necessary for the child's well-being; provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This exception, however, shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(7) *"Adult adopted person" means any adopted person who is twenty-one (21) years of age or older.*

(8) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(9)[~~(8)~~] "Child-placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption.

(10)[~~(9)~~] "Child welfare worker" means an employe of the cabinet designated as such by the secretary for human resources or social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, services to children.

(11)[~~(10)~~] "Boarding home or foster parent" as used in subsection (5) of KRS 199.603 means persons who board children held in custody by the cabinet.

(12)[~~(11)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency.

(13)[~~(12)~~] "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(14)[~~(13)~~] "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children.

(15)[~~(14)~~] "Family" rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons.

Section 2. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Except where a *biological* [~~natural~~] parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has such information, to the adoptive parents and to the circuit court not later than the date of finalization of the adoption proceedings; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to such person. None of the information shall be made available if it is of such a nature that it would tend to identify the biological parents of such adopted person except as provided in Sections 3 and 4 of this Act.

Section 3. KRS 199.570 is amended to read as follows:

(1) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, *except that upon the written consent of the biological parents and upon written order of the circuit court all papers and records including all files and records of the circuit court during proceedings for termination of parental rights provided in KRS 199.615 shall be open for inspection to any adult adopted person who applies in person or in writing to the circuit court as provided in Section 4 of this Act.* No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of adoption. The clerk of the circuit court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(2) After entry of the adoption judgment, the clerk of the circuit court shall promptly report to the cabinet for human resources of Kentucky full information as called for on forms furnished by the cabinet for human resources, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the cabinet for human resources shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL—subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents and such other information deemed necessary in accordance with rules and regulations promulgated by the cabinet for human resources in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate when issued shall not contain the place of birth, hospital and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the cabinet for human resources shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the circuit court which issued the adoption order. The cabinet for human resources shall furnish to the clerks of the circuit courts the necessary forms to carry out the provisions of this section. In the event the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. In the event the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of such child's birth.

(5) If any judgment of adoption is reversed, modified or vacated in any particular, the clerk of the circuit court shall notify the cabinet for human resources of such reversal or modification and the effect of same, and thereupon such cabinet shall make such changes, if any, in its records as may be necessary by such reversal or modification.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records and to personal contact by the child when he becomes an adult. If consent is then given, it cannot later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the circuit court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) When any adult adopted person applies in person or in writing to the circuit court for authorization to inspect all papers and records pertaining to the adoption proceedings of such adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to personal contact, the court may, if satisfied as to the identity of such adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(3) The circuit court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that said person has applied to the court for information identifying such biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may charge a reasonable fee not to exceed two hundred fifty dollars ($250) to the adult adopted person for making such a search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify such biological parents.

(4) The notification of the biological parents shall not be by mail and shall be by personal and confidential contact. The notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the circuit court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

(a) The nature of the information requested by the adult adopted person;

(b) The date of the request of the adult adopted person;

(c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the circuit court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;

(d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and

(e) The right of a biological parent to file an affidavit with the circuit court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

(5) The adult adopted person shall not be authorized to inspect the papers and records pertaining to his adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to such inspection.

(6) If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the circuit court, upon motion of the adult adopted person, may order that all papers and records of the cabinet for human resources and those of the circuit court pertaining to the adoption shall be open for inspection to such adult adopted person. In any case, the court shall order that only identifying information about the biological parents be shared with the adult adopted person.

Section 5. The reviser of statutes shall whenever the phrases "natural parent" or "natural parents" appear in the Kentucky Revised Statutes change them so as to read "biological parent" or "biological parents."

HB 376, AN ACT relating to the confidentiality of sexually transmitted disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Sexually Transmitted Disease Control Confidentiality Act of 1986."

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) "Cabinet" means the cabinet for human resources; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum, chlamydia infections, genital herpes, non-specific urethritis (NSU), non-specific vaginitis (NSV), acquired immune deficiency syndrome (AIDS) and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities in this state and that the principle of confidentiality must remain inviolate.

(2) All information, records and reports concerning persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease are hereby declared to be strictly confidential and only personnel of local health departments and the cabinet for human resources who are assigned to sexually transmitted disease control activities shall have access to such information, records and reports.

(3) No court, board, agency or other judicial or quasi-judicial body shall issue any subpoena or subpoena duces tecum or other order to any local health department or cabinet for human resources personnel to disclose any information, records or reports concerning persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease. The intent of this section is to strictly protect and preserve the principle of confidentiality of such individuals.

(4) Nothing in this section shall be construed as preventing:

(a) The release of medical information to the physician retained by the person infected with or suspected of being infected with a sexually transmitted disease;

(b) The release of medical or epidemiological data or information for statistical purposes in a manner so that no individual person can be identified;

(c) The release of medical information with the written consent of all persons identified in the information to be released;

(d) The release of medical or epidemiological information necessary to enforce the provision of the rules and regulations of the cabinet for human resources, issued pursuant to KRS Chapter 13A, relating to the control and treatment of sexually transmitted disease;

(e) The release of medical information made to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party; and

(f) The release of the name of a child to the department for social services or its delegated representatives in a case of child abuse or suspected child abuse under KRS 199.335 or other applicable statute but no other information shall be released.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of Section 3 of this Act shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100). Each violation shall constitute a separate offense.

The Committee Amendment No. 1 to HB 376 is as follows:

Amend printed copy of HB 376:

On page 1, lines 9 through 15,

by deleting subsection 2 in its entirety and inserting in lieu thereof a new subsection 2 to read as follows:

"*(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, non-gonococcal urethritis, mucopurulent cervicitis, acquired immune deficiency syndrome (AIDS), chlamydia trachomatis infections and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.*" ;

And on page 3, line 12,

By inserting the word "*and*" after the word "*disease;*" ;

And on page 3, line 16,

By inserting a period "." after the word "*party*" and by deleting the following thereafter "*; and*";

And on page 3, lines 17 through 21,

By deleting subsection (f) in its entirety.

HB 477, AN ACT relating to public health and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202B.040 is amended to read as follows:

When a person who is alleged to be mentally retarded is involuntarily committed, there shall be a determination that:

(1) He is a mentally retarded person;

(2) He presents (a) danger or a threat of danger to self or others;

(3) The least restrictive alternative mode of treatment requires placement in a hospital or mental retardation residential treatment center; and

(4) Treatment that can reasonably benefit the individual is available in the hospital or mental retardation residential treatment center.

(5) The application by parents or guardians for placement for their retarded family member in any mental retardation treatment center shall not be considered an involuntary commitment under this section.

Section 2. KRS 202B.050 is amended to read as follows:

All rights guaranteed by KRS Chapters 202A, *other than those rights enumerated in KRS 202A.026 and 202A.051,* and *KRS Chapter* 210 to mentally ill persons shall apply to mentally retarded persons, *provided however that nothing in this section shall limit the right to admission of a mentally retarded person to a mental health facility upon application by a guardian or parent and the subsequent availability of space. Said application shall be on a form prescribed by the cabinet for human resources.*

Section 3. Whereas, Kentucky is currently under a federal court order relating to admissions to mental health facilities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to HB 477 is as follows:

Amend printed copy of HB 477:

On page 2, line 1

by deleting after "202A" the comma "," and

by inserting in lieu thereof an open parenthesis "*(*"

On line 2,

by deleting after "*202A.051*" the comma "," and

by inserting in lieu thereof a closed parenthesis "*)*"

On page 2, line 6

by deleting the words "*health facility*" and

by inserting in lieu thereof the words "*retardation treatment center*"

Report on Enrolled Bills

The Committee on Enrollment reported SB 73 had been examined and found correctly enrolled. SB 73 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 3:19 p.m.)

Motions, Petitions and Communications (Cont'd)

Representative Turner moved the adoption of the following Legislative Citation No. 24:

The House of Representatives of the Commonwealth of Kentucky honors and congratulates the President of the United States.

WHEREAS, Ronald Wilson Reagan celebrates his seventy-fifth birthday on this date; and

WHEREAS, Ronald Wilson Reagan continues to serve as President and lead this nation with vigor; and

WHEREAS, we wish the President well on this and all further anniversaries of his birth;

NOW, THEREFORE, BE IT RESOLVED that this prestigious body does herewith offer its best wishes to Ronald Wilson Reagan. (Sponsored by Representative Turner)

Agreed.

Representative Siler moved to suspend the rules to act upon a Resolution. Agreed.

Representative Siler moved the adoption of the following HR 71:

HR 71, A RESOLUTION recognizing the achievements of the men's basketball team of Cumberland College of Williamsburg, Kentucky.

WHEREAS, the Cumberland College men's basketball team competes in the 500-member National Association of Intercollegiate Athletics; and

WHEREAS, to date, the Cumberland College Indians have a record of twenty-one wins and only one loss; and

WHEREAS, the Cumberland College Indians have maintained a victory margin of seventeen and nine-tenths points per game; and

WHEREAS, the Cumberland College Indians are now the number one ranked team in the NAIA;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives extends congratulations to Cumberland College, Coach Randy Vernon, and the Cumberland College men's basketball team on their being named the number one team in the National Association of Intercollegiate Athletics.

Section 2. That copies of this resolution be sent to Coach Randy Vernon for distribution to his team and staff.

HR 71 was adopted by voice vote.

Representative Kerr moved the adoption of the following Legislative Citation No. 23:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. and Mrs. Charles W. Caldwell, of Independence, Kentucky, on your blissful Golden Wedding Anniversary, December 29, 1985. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. Sharing life's joys and sorrows for fifty years is the ultimate in living the good life. May God's eternal goodness crown you with lasting love, health and happiness.

This prestigious body extends to you, Charles and Annie Caldwell, our very best wishes. (Sponsored by Representative Kerr)

Agreed.

Representative Cowan moved to suspend the rules to withdraw an improper motion. Agreed.

Representative Cowan moved to withdraw motion recommitting HB 71. Agreed.

Representative Ellington moved that he be recorded as voting "Yea" on HB 181. Agreed.

Representative Reinhardt moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 422. Agreed.

Representative White moved that she be recorded as voting "Yea" on HB 277. Agreed.

Representative Arnold moved that he be recorded as changing his vote from "Yea" to "Nay" on HB 220. Agreed.

Representative Burch moved that he be recorded as voting "Yea" on HB 142. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to SB 3, by Representative B. Richardson:

Amend printed copy of SB 3:

On page 1, line 11, after the word "city" and before the word "may" by inserting

"*or sanitation authority established by an interlocal agreement*"

Floor Amendment No. 1 to HB 287, by Representative Williams:

Amend printed copy of HB 287:

On page 1, line 15, strike "*approval*" and insert "*the recommendation*";

On page 1, line 15, after "*superintendent*" and before the comma insert "*and approval of the district board of education*";

On page 1, line 17, after "*leave*" and before the period insert "*according to the district board policy as established pursuant to subsection (2) of this section*".

Floor Amendment No. 2 to HB 162, by Representative R. Jones:

Amend printed copy of HB 162:

On pages 1, 2, and 3 by deleting all of the WHEREAS clauses and inserting in lieu thereof:

"WHEREAS, businesses and professionals are faced with halting services or continuing to offer them without insurance protection due to the liability insurance crisis that is worsening daily; and

WHEREAS, in 1985 premiums for the property and casualty insurance industry as a whole increased 21 percent after the industry had a $3.8 billion pretax operating loss in 1984; and

WHEREAS, our tort law/liability insurance system for medical malpractice is in need of reform if health care costs are to be controlled to assure the general public has access to needed health care; and

WHEREAS, architects, engineers, accountants, attorneys and all professions are facing skyrocketing liability insurance premiums; and

WHEREAS, bars, restaurants, liquor stores, day care centers, nursing homes, and other businesses of all sizes are facing premium increases from 25 percent to more than 1000 percent; and

WHEREAS, the continuing rise in liability insurance rates, their growing effects on businesses and professions in this state, and the impact on the state's economy as professions and businesses raise prices, change operations, and eliminate services, demands that immediate legislative action be taken;"

On page 3, lines 3 and 4, delete "*health care provider, as defined in KRS 304.40-260,*" and insert in lieu thereof "*business or professional person*"

On page 4, lines 2, 5, 7, and 18; and on page 5, lines 6, 7, 17, 21 and 26; and on page 6, lines 1, 4, 5, 8, 9, 10, 14, 22, and 26; and on page 7, lines 12, 13, 16, 17; and on page 10, lines 4, 14, and 15, by deleting "*health care provider*" and inserting in lieu thereof "*business or professional person*"

On page 4, lines 3 and 6, after "*patient's*" by inserting "*or customer's*"

On page 4, lines 12, 14, 20, and 21; and on page 5, lines 11 and 13; and on page 7, line 26; and on page 10, line 14, by inserting "*or customer*" after "*patient*"

On page 5, line 22, after "*patients*" by inserting "*or customers*"

On page 4, line 9, by deleting "*care*" and inserting in lieu thereof "*services*"

On page 4, line 10, by deleting "*medical care*" and inserting in lieu thereof "*services*"

On page 5, line 19, after "*room*" by inserting "*, office, business*"

On page 14, line 12, by deleting "*medical*"

On page 10, by deleting "*or health care*"

On page 3, by deleting lines 1 and 2 in their entirety and inserting in lieu thereof:

"SECTION 1. A NEW SUBTITLE OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"

On page 6, by deleting lines 2 and 3 in their entirety and inserting in lieu thereof:

"SECTION 2. A NEW SUBTITLE OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"

On page 7, by deleting lines 23 and 24 in their entirety and inserting in lieu thereof:

"SECTION 3. A NEW SUBTITLE OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"

On page 10, by deleting lines 1 and 2 in their entirety and inserting in lieu thereof:

"SECTION 5. A NEW SUBTITLE OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"

On page 10, by deleting lines 12 and 13 in their entirety and inserting in lieu thereof:

"SECTION 6. A NEW SUBTITLE OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:".

Floor Amendment No. 3 to HB 162, by Representative R. Jones:

Amend printed copy of HB 162:

On page 1, by amending the title to read as follows: "AN ACT relating to liability of business and professional persons."

Floor Amendment No. 1 to the Committee Substitute to HB 326, by Representative Morris:

Amend printed copy of Committee Substitute to HB 326, on page 2, line 7, by deleting "*138.810*" and inserting in lieu thereof "*134.810*"

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative B. Richardson moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Barrows, HB, 19; Representative Blevins, HB 19; Representative Bruce, HB 477; Representative Donnermeyer, HB 53; Representative Ellington, HB 348, HB 488; Representative Handy, HB 448; Representative J. Harper, HB 10; Representative Head, HB 117, HB 347, HB 401; Representative White, HB 126, HB 477

The following members have filed requests to have their names withdrawn as co-sponsors: Representative Cline, HB 120; Representative J. Harper, HB 465; Representative Thomas, HB 465.

Announcements

Judiciary-Criminal: 8 a.m., Friday, February 7, 1986.

Adjournment

Representative Stumbo moved that the House adjourn until 10 a.m., Friday, February 7, 1986.

On the roll call the vote was yeas 75—Allen, Arnold, Bendl, Bennett, Blandford, Blevins, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Ford, Freibert, Gedling, Gray, Gregory, K. Harper, Head, Hines, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates. Nays 3—Handy, Holbrook, Holloway.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 7, 1986

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of The Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Heleringer.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 6, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 615, by Representative Blevins, Moberly and J. Harper: AN ACT relating to permits for hazardous waste sites and facilities.

HB 616, by Representatives Layman, Preston and Allen: AN ACT relating to water well construction practices.

HB 617, by Representative Burnette: AN ACT relating to jailers.

HB 618, by Representative Lear: AN ACT relating to planning and zoning.

HB 619, by Representatives Freibert and Allen: AN ACT relating to plea bargaining.

HB 620, by Representative Freibert: AN ACT relating to finance and revenue of cities.

HB 621, by Representative Freibert: AN ACT relating to crime and punishment.

HR 72, by Representative LeMaster: A RESOLUTION honoring former State Racing Stewart Keene Daingerfield.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HR 27, HR 60, HR 69.

Appropriations and Revenue: HB 605.

Banking and Insurance: HB 604, HB 607, HB 612.

Business Organizations and Professions: HB 606.

Counties and Special Districts: HB 611, HR 2.

Education: HB 609, HB 614, SB 117.

Health and Welfare: HB 603.

Judiciary-Criminal: HB 613.

Natural Resources and Environment: SB 179.

State Government: HB 608, HB 610, HR 56.

Transportation: HB 602.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: HB 120, HB 583.

Report of Committees

The Committee on Rules reported HB 163, HB 388, HB 389, HB 402, HB 466, HB 489, SJR 7 and SB 3 have been posted in Orders of the Day, February 10, 1986.

The Committee on Rules reported the following Bills have been recommitted:

HB 149 to Appropriations and Revenue.

HB 162 to Judiciary-Civil.

The Committee on Committees reported the following committee changes:

1. Counties and Special Districts—Vice Chairman, Representative Keith. (Replacing Representative Allen)

2. Natural Resources and Environment—Vice Chairman, Representative Jensen. (Replacing Representative Lefevers)

Calendar

HB 234, HB 438, HB 440, HB 443, HB 418, HB 428, HCR 5, SB 21, SB 24, HB 1, HB 67, HB 213, HB 229, HB 283, HB 313, HB 348, HB 372, HB 381, HB 382, HB 399, SB 29, SB 63, SB 142, SB 98, HB 376 and HB 477 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved to suspend the rules to act on a Resolution. Agreed.

Representative LeMaster moved the adoption of the following HR 70:

HR 70, A RESOLUTION designating members of the singing group Exile as honorary goodwill ambassadors of the Commonwealth of Kentucky.

WHEREAS, members of the country music band Exile have been presented with the key to the city of Berea for their contributions to the arts and crafts heritage of Kentucky; and

WHEREAS, the band has unselfishly agreed to perform at many important functions such as the State Fair and the Final Four Basketball Tournament; and

WHEREAS, members of the Exile band are former Madison Central High School students; and

WHEREAS, the members of the band are all current Kentucky residents; and

WHEREAS, this band has been an excellent example of the culture and goodwill of this great Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the singing group Exile are hereby designated as honorary goodwill ambassadors of the Commonwealth of Kentucky.

Section 2. That a copy of this resolution be sent to the leader of the band, J. P. Pennington.

HR 70 was adopted by voice vote.

Representative Overstreet moved that a call of the roll be taken to show co-sponsors of HR 70. Agreed.

The following members requested that their names be added as co-sponsors of HR 70: 94—Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Noe, Noland, O'Brien, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Seum, Siler, Smith, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

HB 287, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of the Committee Amendment No. 1 to HB 287. Agreed.

Representative Williams moved the adoption of the Floor Amendment No. 1 to HB 287. Agreed.

Representative Mack moved that HB 287, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 7, 1986, roll call on HB 287—Appendix A.)

HB 287, as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which HB 287, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 104 and SB 107 had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 10:26 a.m.)

Senate Message

Announcing passage of SB 127, SB 207, SB 213, HB 264 with Senate Amendment and HB 265.

Orders of the Day (Continued)

HB 39 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that HB 39 be passed.

On the roll call the vote was Yeas 87, Nays 8. (See February 7, 1986, roll call on HB 39—Appendix A.)

HB 39 was passed and the title agreed to.

Representative Lear moved that the vote by which HB 39 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that HB 296 be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 7, 1986, roll call on HB 296—Appendix A.)

HB 296 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HB 296 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 367, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Floor Amendment No. 1 to HB 367. Agreed.

Representative Brinkley moved that HB 367, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See February 7, 1986, roll call on HB 367—Appendix A.)

HB 367, as amended, was passed and the title agreed to.

Representative Brinkley moved that the vote by which HB 367, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 455 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that HB 455 be passed.

On the roll call the vote was: Yeas 82, Nays 7. (See February 7, 1986, roll call on HB 455—Appendix A.)

HB 455 was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 455 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 462, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Amendment No. 1 to HB 462. Agreed.

Representative Moberly moved that HB 462, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See February 7, 1986, roll call on HB 462—Appendix A.)

HB 462, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 462, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 16 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that SB 16 be passed.

On the roll call the vote was: Yeas 88, Nays 3. (See February 7, 1986, roll call on SB 16—Appendix A.)

SB 16 was passed and the title agreed to.

Representative Little moved that the vote by which SB 16 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings, Agreed.

Introduction of Bills and Resolutions

HB 622, by Representative Ford: AN ACT relating to releases of liens on real property.

HB 623, by Representative J. Harper: AN ACT relating to police in cities of the sixth class.

HB 624, by Representative Seum: AN ACT relating to the public service.

HB 625, by Representatives Meyer, Blevins, Burch, Stumbo, Strong, White, Maggard, Rose, Cyrus, L. Clark, Lear, Noe, T. Jones, Donnermeyer, Long, Mann, Moberly, Bendl, Hines and Handy: AN ACT relating to state advisory commission on intergovernmental relations.

HR 73, by Representatives Brinkley and Bruce: A RESOLUTION honoring former state representative Mrs. Mae Street Kidd.

HCR 74, by Representative Barrows: A CONCURRENT RESOLUTION directing a study of the state textbook program in public elementary and secondary schools.

HCR 75, by Representative Barrows: A CONCURRENT RESOLUTION in support of honoring Man O' War on a U. S. commemorative postage stamp.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: HB 451.

Energy: HB 437, HB 441, HB 444.

Banking and Insurance: HB 524, HB 539, HB 564, HB 585.

Transportation: HB 420, HB 32, HB 203.

Report of Committees (Continued)

The Committee on Judiciary-Criminal reported HB 12, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of patronizing a prostitute when, as a patron, he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Patronizing a prostitute is a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of soliciting prostitution when, acting as a patron, he engages in conduct proscribed by KRS 506.030 with regard to the solicitation of a violation of KRS 529.020.

(2) Soliciting prostitution is a Class B misdemeanor.

Section 3. KRS 529.020 is amended to read as follows:

(1) A person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Prostitution is a Class *A* [~~B~~] misdemeanor.

Section 4. KRS 529.070 is amended to read as follows:

(1) A person is guilty of permitting prostitution when, having possession or control of premises which he knows or has reasonable cause to know are being used for prostitution purposes, he fails to make reasonable and timely effort to halt or abate such use.

(2) Permitting prostitution is a Class *A* [~~B~~] misdemeanor.

Section 5. KRS 529.080 is amended to read as follows:

(1) A person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.

(2) Loitering for prostitution purposes is a:

(a) *Class B misdemeanor* [~~Violation~~] for the first offense;

(b) Class *A* [~~B~~] misdemeanor for the second offense and for each subsequent offense.

The Committee Amendment No. 1 to HB 12 is as follows:

Amend printed copy of HB 12:

On page 1, line 5, delete "*in return for*" and insert in lieu thereof "*for which the patron would pay*".

Representative Blevins moved to withdraw HB 321. Agreed.

Representative LeMaster moved to suspend the rules to act on a Resolution. Agreed.

Representative LeMaster moved the adoption of the following HR 72:

HR 72, A RESOLUTION honoring former State Racing Steward Keene Daingerfield.

WHEREAS, Keene Daingerfield was born in Lexington, Kentucky in 1910; and

WHEREAS, Keene Daingerfield has dedicated most of his 75 years to the horse industry; and

WHEREAS, since the start of his career in 1948, Keene Daingerfield served as an association steward at 16 different tracks; and

WHEREAS, Keene Daingerfield served as State Steward for 13 years in Kentucky, and also served in similar capacities in New Jersey and Illinois; and

WHEREAS, Keene Daingerfield has come to be regarded as shrewd, fair, and meticulous in his dealings, a role model for his colleagues, and an accessible figure to all licensees under his jurisdiction; and

WHEREAS, Keene Daingerfield's deep involvement with the rules of racing, their interpretation and implementation, have made him what is known as an "expert witness" in several legal cases that hinged on those rules; and

WHEREAS, Keene Daingerfield is one of the premier racing officials in the history of racing in America; and

WHEREAS, officially Keene Daingerfield has been honored by the National Association of State Racing Commissioners and several other racing groups; and

WHEREAS, the Eclipse Award of Merit is racing's most prestigious honor with the recipient of the Eclipse Award of Merit being decided by a six-member panel of representatives from the Daily Racing Form, the Thoroughbred Racing Associations, and the National Turf Writers Association; and

WHEREAS, Keene Daingerfield was named January 14, 1986 to receive the prestigious Eclipse Award of Merit, and is only the eighth recipient of racing's top honor since its inauguration in 1976;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House hails Keene Daingerfield for his distinguished achievements.

Section 2. That when this honorable body does adjourn this day, Friday, February 7, 1986, it does so in honor of Keene Daingerfield.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Mr. Keene Daingerfield.

HR 72 was adopted by voice vote.

Representative Brinkley moved to suspend the rules to act on a Resolution. Agreed.

Representative Brinkley moved that a call of the roll be taken to show co-sponsors of HR 73.

On the roll call the vote was yeas 84—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Jensen, T. Jones, Keith, Kerr, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, Overstreet, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative Brinkley moved the adoption of HR 73.

HR 73, A RESOLUTION honoring former state representative Mrs. Mae Street Kidd.

WHEREAS, Mrs. Mae Street Kidd is a devout member of the Plymouth Congregational Church; and

WHEREAS, during World War II, Mrs. Mae Street Kidd altruistically served as Club Director for the American Red Cross in the European Theatre; and

WHEREAS, Mrs. Mae Street Kidd has unselfishly dedicated many hours of her time serving various organizations including the Public Relations Society of America, the North End Democrat Club, the 12th Ward Democrat Club, and the Jefferson County Democrat Women's Club; and

WHEREAS, Mrs. Mae Street Kidd is a former board member of the Louisville Urban League Guild and is a life member of the NAACP; and

WHEREAS, Mrs. Mae Street Kidd has received various awards and honors including the Outstanding Kentuckians Honor Award in Human Relations (1955), the Louisville Defender's Emancipation Exposition Award (1963), the Louisvile Urban League Honor Award (1967), the King-Kennedy Award for dedication, diplomacy, and legislative skill (1968), the Fellowship Award for Outstanding Service, West Chestnut Street Baptist Church (1981), and the United Cerebral Palsy Humanitarian Service Award; and

WHEREAS, Mrs. Mae Street Kidd ably served the Commonwealth of Kentucky as representative of the 41st District from 1968 to 1984; and

WHEREAS, the Commonwealth has benefitted from the tireless efforts of Mrs. Mae Street Kidd; and

WHEREAS, on February 8th, Mrs. Mae Street Kidd will be celebrating a birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House extends best wishes for a Happy Birthday to our distinguished and beloved colleague Mrs. Mae Street Kidd.

Section 2. That when the House does adjourn this day Friday, February 7, 1986, it does so in honor of Mrs. Mae Street Kidd.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Mrs. Mae Street Kidd.

HR 73 was adopted by voice vote.

Representative Hancock moved the adoption of the following Legislative Citation No. 25:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with profound compassion and sincere regrets the passing of the late "Miss Alice Samuels." She was a doyen educator, prominent caterer, articulate and eloquent writer, as well as an outstanding philanthropist. She served this honorable body as the "Legislative Citation Clerk" for eight years. She was the pilot and pioneer in developing and implementing the citation department that is known and used by this prestigious body today. She was a highly skilled calligrapher giving each citation that personal touch that she had been blessed with. She had a high standard of professionalism accompanied by great competency and efficiency in composing accolades and laurels for noteworthy achievements and accomplishments for the constituents of this distinguished body. She was a devoted and active member of the First Baptist Church serving in every capacity and facet of christian ministry. Her philanthropic, altruistic and benevolent spirit were far-reaching as she was most responsive and sensitive to the needs of others and a friend to all people. Her commitment and faithfulness to her Lord were exemplified by the love and generosity she bestowed on her benefactors. We, the House of Representatives and the Commonwealth of Kentucky mourn the passing of "A Great Lady" and we extend our deepest and heartfelt sympathy to the family. (Sponsored by Representative Hancock)

Agreed.

Representative Noe moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 154. Agreed.

Representative Cowan moved that he be recorded as voting "Yea" on HR 73. Agreed.

Representative Todd moved that he be recorded as changing his "Yea" to "Abstain" on HB 455. Agreed.

Representative Holbrook moved that he be recorded as voting "Yea" on HR 73. Agreed.

Representative Bruce moved that the rules be suspended for the posting of a bill. Agreed.

Posting of Bill for Consideration

Banking and Insurance: HB 526.

Representative Stumbo moved to reassign HB 510 to the Committee on Energy. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 588; Representative Ford, HB 612; Representative K. Harper, HB 506; Representative McBee; HB 612; Representative McElroy, HB 119, HB 612; Representative Reinhardt, HB 347; Representative Richards, HB 612; Representative Todd, HB 612; Representative White, HB 53, HB 404.

The following members have filed requests to have their names withdrawn as co-sponsors: Representative Burnette, HB 326; Representative Freibert, HB 465; Representative Lyne, HB 465; Representative Mann, HB 433.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HCR 40, by Representative Burch.

Amend printed copy of HCR 40:

On page 1, by deleting lines 1 through 4, and by inserting in lieu thereof the following:

"Section 1. That the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare are directed to jointly conduct a study of long-term health care and in-home services for retired teachers to include the following:"

Floor Title Amendment No. 1 to HCR 40, by Representative Burch.

Amend printed copy of HCR 40:

By amending the title to read as follows:

"A CONCURRENT RESOLUTION directing the Interim Joint Committee

on Education and Health and Welfare to conduct a study of

long-term health care and in-home services for retired

teachers."

Announcements

Appropriations and Revenue: Subcommittee on Human Resources, on Adjournment, Monday, February 10, 1986.

Representative Stumbo moved to suspend the rules to announce Rules on adjournment. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 10, 1986.

On the roll call the vote was yeas 83—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holbrook, Holloway, Jensen, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 3—Guenthner, Overstreet, Williams.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 10, 1986

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend J. W. Brown, The Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Long.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 7, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 67, SB 72, SB 99, SB 152, SB 203, SB 204, HB 26 with Senate Amendment, HB 5, HB 13, HB 223 and HB 274.

Report on Enrolled Bills

The Committee on Enrollment reported HB 265 had been examined and found correctly enrolled. HB 265 read at length compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—4:03 p.m.)

Report on Enrolled Bills (Cont'd)

HB 265 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 626, by Representatives Hancock, Pearman, Siler, Bruce and Morris: AN ACT relating to veterans' affairs and making an appropriation therefor.

HB 627, by Representatives Arnold and Cowan: AN ACT relating to jailer training.

HB 628, by Representative Donnermeyer: AN ACT relating to workers' compensation.

HB 629, by Representatives Scorsone, Arnold, Mann, Seum and Brinkley: AN ACT relating to utility termination notices.

HB 630, by Representatives Noland, Maggard, L. Clark, Yates, J. Harper, Stewart and Keith: AN ACT relating to sheriffs.

HB 631, by Representative Smith: AN ACT relating to insurance.

HB 632, by Representative Donnermeyer: AN ACT relating to the Kentucky Information Systems Commission.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: SB 213.

Cities: HB 618, HB 620, HB 623, SB 207, HB 625.

Counties and Special Districts: HB 617.

Education: HCR 74.

Energy: HB 624.

Health and Welfare: HB 616.

Judiciary-Civil: HB 622, SB 127.

Judiciary-Criminal: HB 619, HB 621.

Natural Resources and Environment: HB 615.

State Government: HCR 75.

Report of Committees

The Committee on Rules reported HB 1, HB 213, HB 229, HB 283, HB 313, HB 399, HB 438, HB 440, HB 477, HCR 5, SB 21, SB 24, and SB 63 have been posted in Orders of the Day, February 11, 1986.

The Committee on Rules reported the following Bill has been recommitted: HB 67 to the Committee on Appropriations and Revenue.

The Committee on Judiciary-Criminal reported HB 216, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 216, AN ACT relating to fees for services provided by the Cabinet for Human Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.460 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 199.350 to 199.370 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected or abused, abandoned or in danger of becoming delinquent;

(2) Cooperate with and assist the juvenile courts of the various counties;

(3) Assist circuit courts through services to children whenever requested by the court *provided that the cabinet may charge a reasonable fee for such services to be taxed as cost by the court*; and

(4) Perform such other services as may be deemed necessary for the welfare of children.

Section 2. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The child welfare worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case reasons for the child welfare worker's recommendation shall be given in writing. The recommendation of the child welfare worker shall then be reviewed by the secretary. Based on the report and recommendation of the child welfare worker

making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching his decision the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological and psychiatric standpoint. If the application is refused the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) In any case where the department refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the natural or proposed adopting parent or parents shall appeal to the circuit court of the county in which the adoption is proposed, provided however that no placement shall be disapproved on the basis of the religious, ethnic, racial or inter-faith background of the adoptive applicant, if such placement is made with the consent of the parent. The department shall be made a party defendant to the appeal. In the hearing of an appeal the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

(3) No person, association or organization, other than the department or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the department for human resources in carrying out its aid to dependent children program in accordance with KRS Chapter 205.

(4) In the event a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or in the event permission to receive a child has been denied, a representative of the department may petition the juvenile session of district court of the county in which the child is found setting out the facts concerning the child. When such petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected or abused child under KRS 208.020 except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or such action is ordered by a circuit court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) Nothing in this statute shall be construed to limit the authority of the department or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of district court or the circuit court, prior to the filing of an application to place or receive.

(6) The cabinet may charge a reasonable fee for processing applications under this section. The cabinet may withhold any approval or denial of any application until the fee has been paid.

Section 3. KRS 199.575 is amended to read as follows:

In situations where a pre-adoptive brother or sister relationship existed, and one (1) or more of these siblings was then adopted, the following procedures shall be followed on an inquiry by one (1) or more of the siblings to the cabinet for human resources seeking information about his brother or sister:

(1) In all cases, an adopted person eighteen (18) years of age or older or a pre-adoptive sibling eighteen (18) years of age or older of an adopted person may file information concerning himself, his present location, and his known antecedents with the cabinet for human resources, stating his interest in being reunited with his pre-adoptive siblings and authorizing the cabinet to release such information to his pre-adoptive siblings who may make similar inquiry.

(2) In any case in which a person eighteen (18) years of age or older requests information about or expresses a desire in being reunited with a pre-adoptive sibling, the cabinet shall first determine whether such sibling has made similar inquiry pursuant to subsection (1) of this section. If such sibling has previously authorized release of information about himself, the cabinet shall release such information to the sibling making inquiry.

(3) The cabinet may charge a reasonable fee for services provided under this section or for services provided to any other adopted persons making inquiry to the cabinet concerning their identify, records, or whereabouts of their natural parents.

Section 4. KRS 403.300 is amended to read as follows:

(1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by the friend of the court or such other agency as the court may select. *If the court orders the cabinet for human resources to make such investigation or report, the cabinet may charge a reasonable fee for its services to be taxed as cost in the action.*

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of 16, unless the court finds that he lacks mental capacity to consent. If the requirements of subsection (3) are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The clerk shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data, and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive his right of cross-examination prior to the hearing.

SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet for human resources determines to collect the fees authorized in this Act, administrative regulations shall be promulgated establishing the amount of such fees based upon the cost of the work performed and the ability of the individual involved to pay the fee.

(2) Fees collected under this Act shall be paid into the state treasury and shall be placed in a trust and agency account to be used by the program unit within the cabinet which performed the services for which the fee was paid.

The Committee Amendment No. 1 to HB 216 is as follows:

Amend printed copy of HB 216:

On page 5, lines 7 through 26,

and on page 6, lines 1 through 10,

By deleting Section 3 in its entirety.

And on page 6, line 11,

By renumbering "Section 4" as "Section 3".

And on page 7, line 22,

By renumbering "Section 5" as "Section 4".

The Committee Amendment No. 2 to HB 216 is as follows:

Amend printed copy of HB 216:

On page 1, line 14, to delete "*to*" and to insert in lieu thereof "*which may*"

and on page 6, line 20, to delete "*to*" and to insert in lieu thereof "*which may*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: HB 316, HB 406, HB 414, HB 446, SB 20, HB 565, HB 504.

Counties and Special Districts: HB 611.

Health and Welfare: HB 341, HB 521, HB 568, HB 584, HB 542, HB 603.

Calendar

HB 12 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 388, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to HB 388. Agreed.

Representative Rapier moved that HB 388, by way of Committee Substitute be passed.

On the roll call the vote was Yeas 52, Nays 32. (See February 10, 1986, roll call on HB 388—Appendix A.)

HB 388, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which HB 388, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 40, with Floor Amendment and Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that HCR 40 be passed.

Representative Burch moved the adoption of Floor Amendment No. 1 to HCR 40. Agreed.

Representative Noe moved that HCR 40, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 10, 1986, roll call on HCR 40—Appendix A.)

HCR 40, as amended, was passed.

Representative Noe moved the adoption of the Title Amendment to HCR 40. Agreed, and the Title was agreed to.

Representative Noe moved that the vote by which HCR 40, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that HB 389 be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See February 10, 1986, roll call on HB 389—Appendix A.)

HB 389 was passed and the title agreed to.

Representative O'Brien moved that the vote by which HB 389 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 489, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to HB 489. Agreed.

On the roll call the vote was: Yeas 89, Nays 4. (See February 10, 1986, roll call on HB 489—Appendix A.)

HB 489, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which HB 489, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 402 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that HB 402 be passed.

On the roll call the vote was: Yeas 69, Nays 20. (See February 10, 1986, roll call on HB 402—Appendix A.)

HB 402 was passed and the title agreed to.

Representative T. Jones moved that the vote by which HB 402 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 163, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of the Committee Substitute to HB 163. Agreed.

Representative Burnette moved that HB 163, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 10, 1986, roll call on HB 163—Appendix A.)

HB 163, by way of Committee Substitute, was passed and the title agreed to.

Representative Burnette moved that the vote by which HB 163, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 633, by Representatives L. Clark, Bennett, Priddy and Gray: AN ACT relating to mediation.

HB 634, by Representatives Hancock and Johnson: AN ACT relating to motor vehicle equipment.

HR 76, by Representative Scorsone: A RESOLUTION honoring Transylvania coach Don Lane.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: SB 178.

State Government: HB 515, HCR 65, SB 158.

Banking and Insurance: HB 417, HB 607.

Representative Scorsone moved to suspend the rules to act upon a Resolution:

Representative Scorsone moved the adoption of the following HR 76:

HR 76, A RESOLUTION honoring Transylvania coach Don Lane.

WHEREAS, yesterday's victory of the Transylvania College men's basketball team over a scrappy Union College team gave Coach Don Lane his 177th Transy victory, making him the winningest coach in Transylvania history; and

WHEREAS, nine of Coach Lane's eleven seasons at Transylvania have been winning seasons and have included four trips to post-season playoffs, seven Transylvania Tip-Off Tournament championships and three other invitational tournament championships; and

WHEREAS, Don Lane has earned deep respect and admiration both on and off the Transylvania campus; and

WHEREAS, in the words of Herman Bush of EKU, Don Lane was "born to be a coach," and in the words of his players, he has a gift for "building confidence and bringing out the best in you";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes this outstanding coach upon this special victory.

Section 2. That when the House adjourns this day, Monday, February 10, 1986, it does so in honor of Don Lane.

Section 3. That a copy of this resolution be sent to Coach Lane.

HR 76 was adopted by voice vote.

Representative Arnold moved the adoption of the following Legislative Citation No. 26. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Philip Steven Welch, volunteer fireman of the Montgomery County Fire Department, for your bravery in the midst of great danger and peril while fighting a fire on January 10, 1986.

You made the supreme sacrifice, going beyond the call of duty to re-enter a burning house to search for and rescue any victims. Your dedication, self-sacrifice and humanitarian spirit have made your community a better place in which to live.

This prestigious body commends you for your unselfish and sacrificial service, and we extend our best wishes for a speedy recovery. (Sponsored by Representative Arnold)

Report on Enrolled Bills

The Committee on Enrollment reported HB 13, HB 223 and HB 274 had been examined and found correctly enrolled. HB 13, HB 223 and HB 274 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:43 p.m.)

HB 13, HB 223 and HB 274 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Representative Lyne moved the adoption of the following Legislative Citation No. 27. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Daniel Street Nealy, son of Jim and Ellen Nealy, Russellville, Kentucky, for your intrigued interest with politics at the early age of eight. Your fascination and concern about governmental affairs and its process is most amazing and profound.

This prestigious body commends and encourages you as you continue with your education and wish you much success in your chosen profession. (Sponsored by Representative Lyne)

Report on Enrolled Bills

The Committee on Enrollment reported HB 5 has been examined and found correctly enrolled. HB 5 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:50 p.m.)

HB 5 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Representative Stumbo moved to reassign HB 406 and HB 446 to the Committee on Energy. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 1, by Representative Meyer:

Amend printed copy of HB 1:

On page 2, line 7, delete the new language: "*or second*"

Floor Amendment No. 2 to Committee Substitute for HB 326, by Representative Morris:

Amend printed copy of Committee Substitute for HB 326:

on page 9, lines 25 and 26, delete said lines in their entirety.

on page 10, lines 1 through 8, delete said lines in their entirety.

on page 10, line 9; Section 6 becomes Section 5.

on page 12, line 15, Section 7 becomes Section 6.

on page 14, line 9, Section 8 becomes Section 7.

Floor Amendment No. 1 to HB 313, by Representative Cyrus:

Amend printed copy of HB 313:

On page 1, line 4:

by placing a bracket before and striking through "or";

and on line 5:

by placing a bracket after and striking through "cause to be constructed".

Representative P. Clark moved that he be recorded as voting "Yea" on HB 389. Agreed.

Representative Ellington moved that he be recorded as voting "Yea" on HB 389. Agreed.

Representative Head moved that he be recorded as voting "Yea" on HB 367. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Barrows, HR 76; Representative Rose, HB 504.

The following members filed a request to have their names withdrawn as a co-sponsor: Representative Mann, HB 138; Representative P. Richardson, HB 465.

Announcements

The following meetings were announced:

Education: Cancelled, Tuesday, February 11, 1986.

Appropriations and Revenue: Subcommittee on Health Service, Room 104 on adjournment today.

Appropriations and Revenue: Subcommittee on General Government, Wednesday, February 12, 1986, at 9:00 a.m.

Rules on Adjournment: State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 11, 1986.

On the roll call the vote was yeas 84—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Lyne, Mack, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates. Nays 3—Deskins, Holbrook, Overstreet.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 11, 1986

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of The Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 10, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 635 by Representatives Gedling, Kerr and P. Clark: AN ACT relating to deeds.

HB 636, by Representatives Gray, Cyrus, P. Clark, Bennett, Little, M. Brown, Yates, Priddy, Burch, Noland, Farrow, Mann and J. Harper: AN ACT relating to railroads.

HR 77, by Representatives M. Brown and J. Harper: A RESOLUTION urging the Secretary of Transportation to increase the weight classification on segments of Kentucky Route 1851 and Kentucky Route 2317 in Jefferson and Bullitt Counties.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: HB 631, SB 72.

Counties and Special Districts: HB 627, HB 630.

Education: SB 67, SB 152.

Energy: HB 629, SB 203, SB 204.

Labor and Industry: HB 628, HB 633.

Natural Resources and Environment: SB 99.

State Government: HB 626, HB 632.

Transportation: HB 634.

Report of Committees

The Committee on Rules reported HB 12, HB 372, HB 376, HB 381, HB 382, SB 29, SB 98 and HB 452 have been posted in Orders of the Day, February 13, 1986.

The Committee on Rules reported the following Bills have been recommitted: HB 348 and HB 480 to the Committee on Appropriations and Revenue.

The Committee on Education reported HB 325, HB 471, HB 579 and SB 43 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 325, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

(1) The boards of trustees of the university of Kentucky and the university of Louisville and the boards of regents of those state colleges set out in KRS 16A.290 shall, within ninety (90) days of the effective date of this Act, adopt statements of campus policy which prohibit any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization. Such policy statements shall govern the conduct of students, faculty and other staff as well as visitors and other licensees and invitees on such campuses and property. The penalties for violations of such policy statements shall be clearly set forth therein and shall include provisions for the ejection of a violator from such campus and property, in the case of a student or faculty violator his suspension, expulsion or other appropriate disciplinary action and, in the case of an organization which authorizes such conduct, recision of permission for that organization to operate on campus property. Such penalties shall be in addition to any penalty pursuant to the penal law or any other chapter to which a violator or organization may be subject. A copy of such policy statements which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be given to all students enrolled in said college and shall be deemed to be part of the by-laws of all organizations operating on said campus.

(2) Nothing contained in this section is intended nor shall it be construed to limit or restrict the freedom of speech nor peaceful assembly.

HB 471, AN ACT relating to local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.280 is amended to read as follows:

(1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of *forty dollars ($40)* [~~twenty dollars ($20)~~] in any calendar year, and their actual expenses for each regular or special meeting attended. In no case shall the expenses incurred within the district or per diem of any member exceed *one thousand dollars ($1,000)* [~~four hundred dollars ($400)~~] in any calendar year.

(2) Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of forty dollars ($40.00), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed two thousand five hundred dollars ($2,500) per calendar year.

(3) Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

(4) All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

HB 579, AN ACT relating to certification of school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board of education. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education.

(2) [~~In the case of nontax supported schools, standards for teacher certification shall provide for the certification without further educational requirements of any administrator, supervisor, or teacher who has earned a bachelor's degree from a standard college or university.~~

~~(3)~~]Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board of education for the certificates.

(3)[~~(4) Effective January 1, 1985,~~] Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the state board of education and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. *If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. In the event the teacher fails the tests, the temporary certificate shall be valid only for the current semester.*

(4)[~~(5)~~] A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the state board of education. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The department of education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than five (5) years of teaching experience who are seeking initial certification in Kentucky.

(5)[~~(6) Effective January 1, 1985,~~] All new teachers, and out-of-state teachers with less than *two (2)* [~~five (5)~~] years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one-year internship. The teacher shall be a full-time employe *or shall have an annual contract and serve on at least a half-time basis and shall have* [~~with~~] supervision, assistance, and assessment during the one-year internship. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program the one-year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by state board of education regulations.

(6)[~~(7)~~] The beginning teacher committee shall be composed of three (3) persons who have *successfully completed* [~~received~~] special training in the supervision and assessment of the performance of beginning teachers as provided in subsection *(8)* [~~(9)~~] of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. *In the event that more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations the superintendent of public instruction may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.* In the event the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. The resource teacher shall be appointed by the department of education from a pool of qualified resource teachers, *and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the department of education for work done outside normal working hours.* Priority shall be given to resource teachers with the same certification as the teacher intern in the following order: (1) teachers in the same school, (2) teachers in the same district, and (3) teachers *in an adjacent school district* [~~statewide~~]. The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7)[~~(8)~~] The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50)

of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8)[~~(9)~~] By contract with teacher education institutions in the Commonwealth, the superintendent of public instruction shall provide *special* training for persons who will be serving on the beginning teacher committees. *Completion of special training shall be evidenced of successfully passing the examinations as prescribed by the state board of education.*

(9)[~~(10)~~] In the event an applicant establishes eligibility for a one-year certificate under the provisions of subsection *(3)* [~~(4)~~] of this section, but does not become employed on the [~~full-time~~] basis needed to satisfy the one-year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the regulations of the state board of education. The applicant shall remain eligible for the one-year certificate as provided in *subsection (3)* [~~paragraph (4)~~] and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10)[~~(11)~~] The state board of education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board of education [~~and are equivalent to the curricula prescribed for the state institutions~~] for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula [~~or the equivalent thereof,~~] as approved by the state board of education, and who has completed the prescribed requirements for the issuance of certificates *shall* [~~for teaching to students of the state institutions may~~] be granted a certificate *corresponding to the curricula completed* [~~for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions~~].

SB 43, AN ACT designating Retired Teachers' Week.

WHEREAS, the progress of this State, this nation and in fact all civilization is due to the passing of knowledge from one generation to the next; and

WHEREAS, the burden of the transmittal and expansion of this body of knowledge has historically been borne by our teachers; and

WHEREAS, the teachers of Kentucky have tirelessly taken on the noble and sacred trust of educating and training our children; and

WHEREAS, the State of Kentucky is proud to be the home of many teachers who have retired after spending most of their lives rendering this priceless service.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The fourth week of May of each year is designated as Retired Teachers' Week. The Governor may annually issue a proclamation designating the fourth week of May as Retired Teachers' Week and calling upon public schools and citizens of the State to observe the occasion and honor the retired teachers of the State.

The Committee on Labor and Industry reported HB 424 and HCR 46 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 424, AN ACT relating to purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Purchaser" shall mean any governmental agency, business, nonprofit organization or any individual or group funded, in whole or in part, by public funds; and

(2) "American product" shall mean any product assembled in the United States or Canada which does not contain more than fifty percent (50%) component parts imported from outside the borders of the United States or Canada.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Purchasers shall purchase only American products unless the purchaser can show, in writing, to the chief purchasing officer, that American products are unavailable or cannot be acquired within a reasonable time to meet the purchaser's requirements.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

This Act shall not apply to medical or scientific products; however, American medical or scientific products shall be purchased when possible.

Section 4. KRS 45A.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or be imprisoned not less than one (1) year nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(2) Any person who violates any provisions of KRS 45A.330 to 45A.340, shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(3) Any person who willfully violates this code shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment in the discretion of the jury.

(4) Any employe or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(5) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employe or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(6) Criminal penalties for violations of the laws which are in existence on January 1, 1980 shall not be impaired.

(7) *Except for Sections 1, 2, and 3 of this Act,* this section shall not apply to any officer or employe of a

political subdivision, including a school district, nor to the procurement activities of any such political subdivision unless such political subdivision has elected to operate under KRS 45A.345 through 45A.460.

(8) Any person who violates Section 2 of this Act shall be guilty of a class D felony.

HCR 46, A CONCURRENT RESOLUTION directing a study of the feasibility of establishing a foundation program fund for building inspectors, plans and specifications inspectors and plumbing inspectors.

WHEREAS, it has been eight years since a fire destroyed the Beverly Hills Supper Club in Northern Kentucky, claiming hundreds of lives; and

WHEREAS, the horror of the Beverly Hills catastrophe will forever haunt its victims and remain etched in the consciousness of the citizens of the Commonwealth; and

WHEREAS, as a direct result of the Beverly Hills fire, the General Assembly created a Department of Housing, Buildings and Construction to coordinate all facets of building construction and building occupancy; and

WHEREAS, a state uniform building code is required to be adopted by every locality throughout the Commonwealth; and

WHEREAS, the state has mandated a certification program for all building inspectors, plans and specifications inspectors and plumbing inspectors; and

WHEREAS, there are currently 220 individuals enrolled in the state's mandatory certification program; and

WHEREAS, the General Assembly established a precedent by creating the Law Enforcement Foundation Program Fund in 1972 and the Professional Fire Fighters Foundation Program Fund in 1980 as supplemental pay programs for state mandated educational and training programs; and

WHEREAS, certification and continuing education for building and plan review officials is as important to the protection and safety of the citizens of the Commonwealth as police and fire protection;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the feasibility of establishing a foundation program fund for building inspectors, plans and specifications inspectors and plumbing inspectors enrolled in the certification program required pursuant to KRS 198B.090. The study shall include information on the number of participants, monthly and yearly expenditures, and a funding mechanism involved with the creation of a foundation fund for certified building officials.

Section 2. A report and recommendations shall be presented to the Legislative Research Commission no later than September 1, 1987.

Section 3. Staff services to be used in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

State Government: HB 572.

Calendar

HB 216 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SJR 7 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of SJR 7.

On the roll call the vote was: Yeas 91, Nays 4. (See February 11, 1986, roll call on SJR 7—Appendix A.)

SJR 7 was passed and the title agreed to.

Representative Farrow moved that the vote by which SJR 7 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 3, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to SB 3. Agreed.

Representative B. Richardson moved the adoption of Floor Amendment No. 2 to SB 3. Agreed.

Representative Long moved that SB 3, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See February 11, 1986, roll call on SB 3—Appendix A.)

SB 3, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which SB 3, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 16 had been examined and found correctly enrolled. SB 16 read at length compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—2:28 p.m.)

Senate Message

Announcing passage of SB 35, SB 60, SB 139, SB 154, SB 155, SB 162, SJR 26, HB 169 with Senate Amendment, HB 282 with Senate Amendments, HB 322 with Senate Amendment, and HB 47.

Orders of the Day (continued)

HB 213, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved the adoption of the Committee Amendment No. 1 to HB 213. Agreed.

Representative P. Richardson moved that HB 213, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 11, 1986, roll call on HB 213—Appendix A.)

HB 213, as amended, was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HB 213, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that HB 229 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 11, 1986, roll call on HB 229—Appendix A.)

HB 229 was passed and the title agreed to.

Representative Gedling moved that the vote by which HB 229 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 283 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that HB 283 be passed.

On the roll call the vote was: Yeas 82, Nays 10. (See February 11, 1986, roll call on HB 283—Appendix A.)

HB 283 was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 283 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 313, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Floor Amendment No. 1 to HB 313. Agreed.

Representative Cyrus moved that HB 313, as amended, be passed.

On the roll call the vote was: Yeas 55, Nays 33. (See February 11, 1986, roll call on HB 313—Appendix A.)

HB 313, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 313, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 399, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to HB 399. Agreed.

Representative Hancock moved that HB 399, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 11, 1986, roll call on HB 399—Appendix A.)

HB 399, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which HB 399, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that HB 438 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 11, 1986, roll call on HB 438—Appendix A.)

HB 438, was passed and the title agreed to.

Representative Mann moved that the vote by which HB 438 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 440 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that HB 440 be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 11, 1986, roll call on HB 440—Appendix A.)

HB 440 was passed and the title agreed to.

Representative Mann moved that the vote by which HB 440 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 477, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to HB 477. Agreed.

Representative Donnermeyer moved that HB 477, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 11, 1986, roll call on HB 477—Appendix A.)

HB 477, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 477, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 5 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of HCR 5.

On the roll call the vote was: Yeas 95, Nays 0. (See February 11, 1986, roll call on HCR 5—Appendix A.)

HCR 5 was passed and the title agreed to.

Representative Noe moved that the vote by which HCR 5 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 63 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that SB 63 be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See February 11, 1986, roll call on SB 63—Appendix A.)

SB 63 was passed and the title agreed to.

Representative Worthington moved that the vote by which SB 63 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HJR 78, by Representatives Cyrus and Holloway: A JOINT RESOLUTION petitioning the Governor to establish a special Task Force on Workers' Compensation and declaring an emergency.

HR 79, by Representative Blevins: A RESOLUTION adjourning the House of Representatives in memory of Mary Sue Lucke.

HJR 80, by Representative Burch: A JOINT RESOLUTION directing the Department of Highways to initiate a pilot program in Jefferson County to provide for the installation of callboxes on streets and highways to be used by motorists in emergency situations.

HB 637, by Representative Cowan: AN ACT relating to crimes and punishments.

HB 638, by Representative Donnermeyer: AN ACT relating to planning and zoning and financing thereof.

HB 639, by Representative Burch: AN ACT relating to children and programs relating thereto.

HB 640, by Representatives Maggard and Ford: AN ACT relating to the investigation of complaints by the public service commission.

HB 641, by Representatives B. Smith and Richards: AN ACT relating to memorial licensure.

HB 642, by Representatives Kerr and Gedling: AN ACT relating to crimes and punishments.

HB 643, by Representative Morris: AN ACT relating to motor vehicle seat belts.

HB 644, by Representative Bennett: AN ACT relating to collective bargaining.

HB 645, by Representative Burnette: AN ACT relating to seeds.

HB 646, by Representative Freibert: AN ACT relating to revenue estimates.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: HR 60.

State Government: HB 61, HB 124, HB 176, HB 317, HB 423, HB 586, HB 610, HCR 51, SB 50, SB 51, SB 52, SB 53, SB 54, SB 55, SB 56, SB 57, SB 58, SB 59, SB 61, SB 106 and HB 221.

Banking and Insurance: SB 72, HB 612, SB 76, SB 86.

Natural Resources and Environment: HB 528, HB 615, HB 509, HB 482, HB 511.

Report of Committees

The Committee on Banking and Insurance reported HB 202 with Committee Substitute attached thereto, HB 286 with Committee Amendment attached thereto, HB 516 with Committee Amendment attached thereto, HB 524, HB 526, HB 544 with Committee Substitute attached thereto, and HB 564 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 202, AN ACT relating to the maximum debt of directors and officers to a bank or trust company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal estate which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances.

(2) *(a) A bank or trust company may permit any of its directors or officers to become indebted or obligated as guarantor or surety to it:*

1. In any amount to finance the education of the children of a director or officer;

2. In any amount to finance the purchase, construction, maintenance, or improvement of a residence of a director or officer, if the indebtedness or obligation is secured by a first lien on the residence and the residence is owned, or expected to be owned after incurring the indebtedness or obligation, by the director or officer; and

3. For any other purpose not specified in subparagraphs 1. and 2. of this paragraph, if the aggregate amount of loans to that director or officer under this subparagraph does not exceed at any one time the higher of 2.5 percent (2.5%) of the bank's capital and unimpaired surplus or twenty-five thousand dollars ($25,000), but in no event more than one hundred thousand dollars ($100,000).

(b) Any indebtedness or obligation of a director or officer of a bank or trust company shall be:

1. Promptly reported to the board of directors of the bank or trust company;

2. Preceded by the submission of a detailed current financial statement of the director or officer; and

3. Made subject to the condition that the indebtedness or obligation shall, at the option of the bank or trust company, become due and payable at any time that a director or officer is indebted or obligated to any other bank or banks in an aggregate amount greater than the amount specified for a category of credit in paragraph (a) of this subsection [~~No bank or trust company shall permit any of its directors or officers to become indebted or obligated as guarantor or surety to it in an amount exceeding ten per cent (10%) of its capital stock actually paid in, without securing the excess by the mortgage or pledge of real personal property double in value the amount of the excess~~].

(3) In no event shall the indebtedness or obligation of any person exceed thirty per cent (30%) of the paid-in capital and actual surplus of a bank or trust company.

(4) In computing the indebtedness of a partnership, the liability of the individual members shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

Section 2. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420,

shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsection (4), (6), (7), (8), or (9) of this section is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a

willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a civil penalty of not more than one thousand dollars ($1,000) per day for each day such violation continues. The penalty shall be assessed and collected by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the penalty the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank or trust company which violates subsection (2) of KRS 287.280 and any director or officer of the bank or trust company knowingly participating in the violation shall, for each offense, forfeit to the Commonwealth twice the amount of the loan.

The Committee Substitute to HB 202 is as follows:

HB 202, AN ACT relating to the maximum debts of directors and officers to a bank or trust company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal estate which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; *but in no event shall the indebtedness or obligation of any person exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.*

(2) No bank or trust company shall permit any of its directors or *executive* officers to become indebted *to it* or *become* obligated as guarantor or surety to it *unless the indebtedness, which term includes granting a line of credit, or obligation:*

(a) Is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons and does not involve more than the normal risk of repayment or present other unfavorable features; and

(b) Has been approved in advance by a majority of the entire board of directors of the bank or trust company, and the interested party has abstained from participating directly or indirectly in the voting; provided, that approval by the board of directors under this paragraph is not required:

1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or

2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.

In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection [~~in an amount exceeding ten per cent (10%) of its capital stock actually paid in, without securing the excess by the mortgage or pledge of real personal property double in value the amount of the excess~~].

(3) *For purposes of subsection (2) of this section:*

(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar openend credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;

(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and

(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in consert with one (1) or more persons:

1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;

2. Controls in any manner the election of a majority of the directors of the entity or committee; or

3. Has the power to exercise a controlling influence over the management or policies of the entity or committee [~~In no event shall the indebtedness or obligation of any person exceed thirty per cent (30%) of the paid-in capital and actual surplus of a bank or trust company~~].

(4) In computing the indebtedness of a partnership, the liability of the individual members shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

HB 286, AN ACT relating to commercial paper.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.3-416 is amended to read as follows:

(1) "Payment guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor without resort by the holder to any other party.

(2) "Collection guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor, but only after the holder has reduced his claim against the maker or acceptor to judgment and execution has been returned unsatisfied, or after the maker or acceptor has become insolvent or it is otherwise apparent that it is useless to proceed against him.

(3) Words of guaranty which do not otherwise specify guarantee payment.

(4) No words of guaranty added to the signature of a sole maker or acceptor affect his liability on the instrument. Such words added to the signature of one (1) of two (2) or more makers or acceptors create a presumption that the signature is for the accommodation of the others.

(5) When words of guaranty are used presentment, notice of dishonor and protest are not necessary to charge the user.

(6) Any guaranty written on the instrument is enforcible notwithstanding any statute of frauds.

(7) No guaranty which is not written on the instrument involved shall be valid or enforcible unless it is in writing signed by the guarantor with the maximum amount guaranteed and the date on which the guaranty terminates stated therein.

The Committee Amendment No. 1 to HB 286 is as follows:

Amend printed copy of HB 286:

On page 2, line 11, after "*guarantor*" by deleting "*with the maximum*"

On page 2, by deleting lines 12 and 13 in their entirety

On page 2, line 11, after "*guarantor*" by inserting:

"*and contains provisions specifying the amount of the maximum aggregate liability of the guarantor thereunder, and the date on which the guaranty terminates, provided that such termination shall not affect the liability of the guarantor with respect to:*

(a) obligations created or incurred prior to such date, or

(b) extensions or renewals of, interest accruing on, or fees, costs or expenses incurred with respect to, such obligations on or after such date."

HB 516, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Whenever an insurer receives notice of a claim against it by one (1) of its insureds or the beneficiary of one (1) of its insureds, it shall conduct a reasonable investigation of the claim and notify the insured or beneficiary in writing of the results of its investigation at the earliest possible date and in no event later than sixty (60) days after its receipt of the claim. Such notification shall advise the insured or beneficiary whether the insurer accepts or denies coverage of the claim and the amount, if any, the insurer offers to pay in settlement of the claim.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In any action brought against an insurer by an insured or beneficiary in which a judgment is rendered against the insurer and in favor of the insured or beneficiary under a policy or contract executed by the insurer, a reasonable attorney's fee for advising and representing the insured or beneficiary shall be awarded by the court if the insurer, in the writing provided for in Section 1 of this Act, had denied coverage or offered to pay an amount that is at least twenty-five percent (25%) less than the amount of the insurer's liability determined at trial or if the insurer failed to provide the notification required under Section 1 of this Act.

The Committee Amendment No. 1 to HB 516 is as follows:

Amend printed copy of HB 516:

On page 2, after line 6, by adding:

"SECTION 3. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This Act shall apply to all claims pending on the effective date of this Act that occurred on or after July 1, 1985."

HB 524, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

(1) Annual statement:	
(a) Filing each year	$100.00
(b) Filing additional or supplemental statement in same year	100.00
(2) For filing charter documents:	
(a) Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed	100.00
(b) Amended charter documents, bylaws and records of organization, or certified copies thereof	50.00
(3) Certificate of authority:	
(a) Issuance of original certificate	500.00
(b) Amending, to add a line	50.00
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers: Filing application for solicitation permit and issuance of such permit	200.00
(5) Self insurer:	
(a) Application to become self-insurer under Subtitle 39	200.00
(b) Annual review of status under Subtitle 39	100.00
(c) Notification of self-insurance program under Subtitle 32	50.00
(6) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, biennial	40.00
(b) License for industrial life insurer, only, biennial	40.00
(c) License for other insurance, each insurer represented, biennial	40.00
(d) Limited license as travel insurance agent, biennial	40.00

(e) Temporary license as property and casualty agent	20.00
(f) Temporary license as life and health agent	20.00
(g) Nonresident agent, biennial	50.00
(7) Surplus lines broker, *managing general agent*, biennial	100.00
(8) Solicitor's license, biennial	20.00
(9) Adjuster's license, biennial	50.00
(a) Temporary license as apprentice adjuster	25.00
(10) Consultant's license, biennial	50.00
(11) Agent's licenses, fraternal benefit societies, Subtitle 32 corporations, health maintenance organizations, prepaid dental plan organizations, biennial	40.00
(12) Examination, for or in connection with licensing of agents, solicitors, adjusters, and consultants	50.00
(13) Annual registration fee of unauthorized insurer	500.00
(14) Advisory organizations:	
(a) Application for license	500.00
(b) Annual renewal	100.00
(15) Rate and form filings:	
(a) Rate level revision filing in a non-competitive market	100.00
(b) Other rate and form filings	5.00
(16) Premium finance company license issuance and annual renewal	100.00
(17) Cost of administering Subtitle 32 per membership contract in force on December 31st of each year, except the health insurance contract or contracts for state employes as authorized by KRS 18A.225	.10
(18) Miscellaneous services:	
(a) Filing other documents, each	5.00
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	5.00
(c) For copies of any document on file with the commissioner, per page	.50
(d) Copy of annual statements, per page	1.00

SECTION 2. A NEW SECTION OF KRS 304.9-060 TO 304.9-070 IS CREATED TO READ AS FOLLOWS:

(1) A "managing general agent" is an individual, firm, or corporation appointed by an insurer to solicit applications from agents for insurance contracts or to negotiate insurance contracts on behalf of an insurer, and if authorized to do so by an insurer, to effectuate and countersign insurance contracts.

(2) No person shall in this state be, act as, or hold himself out as a managing general agent unless then licensed as a managing general agent. In order to qualify for a managing general agent license, a person shall:

(a) Hold a general lines insurance agent license and be appointed by each authorized insurer the person holds the contract to represent;

(b) If a nonresident, hold a nonresident general lines insurance agent license and be appointed by each authorized insurer the person represents in Kentucky. Nonresidents are subject to the restrictions of KRS 304.9-140; and

(c) Hold a surplus lines broker license if any unauthorized insurers are represented or used.

In order for a corporation or firm to qualify for a managing general agent license, all persons acting on behalf of the corporation or firm under its license shall be licensed general lines insurance agents.

(3) As used in this chapter, "agent" includes managing general agent unless the context requires otherwise.

(4) A managing general agent is a representative of the insurers which the managing general agent holds a contract to represent. Such insurers are liable for the acts of the managing general agent in representing the insurers.

(5) The commissioner shall issue managing general agent licenses to expire on March 31, 1988, and to be renewed biennially thereafter.

Section 3. KRS 304.9-080 is amended to read as follows:

(1) No person shall in this state be, act as, or hold himself out as an agent, solicitor, consultant, or adjuster unless then licensed as an agent, solicitor, consultant, or adjuster respectively.

(2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed. No consultant shall act as such with respect to any kind of insurance as to which he is not then licensed as a consultant.

(3) A consultant license must cover either or both of the following categories, as selected by the licensee:

(a) General lines.

(b) Life and health.

A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.

(4) No person licensed as a consultant shall act as a consultant until he has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.

(5) Except as provided in KRS 304.9-410, no agent shall place, *and no insurer shall accept,* any insurance with any insurer as to which he does not then hold a license and appointment as agent under this subtitle.

(6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 4. KRS 304.9-090 is amended to read as follows:

The definition of agent, solicitor or consultant shall not be deemed to include:

(1) Salaried employes in the office of a general lines agent, which employes devote full time to clerical and administrative services, with incidental taking of insurance applications and receiving premiums in the office of the employer agent if the employe does not receive any commissions on such applications and his compensation is not varied by the volume of applications or premiums taken or received by such employe.

(2) The supervising managing general agent *(except as defined in Section 2 of this Act)* or supervising officer or employe of an insurer who solicits only with duly licensed resident agents of the insurer.

(3) Newsboys and managers of newspaper distribution offices who incidentally take applications of so-called "newspaper accident insurance" and receive premiums in connection therewith.

(4) Employes or other representatives of a group policyholder engaged in enrolling certificate holders and performing other activities in the administration of the group policy.

Section 5. KRS 304.9-410 is amended to read as follows:

(1) A general lines agent may*:* [;]

(a) Occasionally place an insurance coverage with an insurer as to which he is not then appointed as an agent, and such insurer may accept such business only when placed through a licensed resident agent, of the insurer. Both agents involved in such an exchange of business must be then licensed as to all of the kinds of insurance represented by the coverage*; and*

(b) Without limitation, place insurance coverage with an insurer as to which he is not then appointed as agent, and such insurer may accept such business only if placed through a licensed managing general agent.

(2) A life or health insurance agent may, *occasionally,* place with another insurer as to which he is not licensed as agent, a particular risk or portion thereof which has been rejected by the insurers as to which the agent is licensed or is known to the agent to be unacceptable to such insurers, and without then being licensed as to such other insurer.

(3) The commissioner shall, by regulation, establish the amount or volume of business that constitutes the occasional placement of business permitted by subsections (1) and (2) of this section. Such regulations may be based on a percentage or ratio of the agent's business or any other appropriate standard.

HB 526, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The purpose of this subtitle is to regulate the formation and operation in this state of risk retention groups formed pursuant to the product liability risk retention act of 1981 (P.L. 97-45), 15 U.S.C. sec. 3901 et seq., and to protect the public by appropriate regulation of these risk retention groups.

SECTION 2. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by:

(a) Any person who performs that work; or

(b) Any person who hires an independent contractor to perform that work;

but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;

(2) "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state;

(3) "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred;

(4) "Risk retention group" means any corporation or other limited liability association taxable as a corporation or as an insurance company formed pursuant to this subtitle:

(a) Which is organized for the primary purpose of assuming and spreading the product liability or completed operations liability risk exposure of its members;

(b) Whose primary activity consists of assuming and spreading all, or any portion, of the product liability or completed operations liability risk exposure of its group members; and

(c) Which is composed of members each of whose principal activity consists of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product or products;

(5) "Service providers" means any person providing insurance-related services or management services to, or for, a risk retention group, including, but not limited to, agents, claims appraisers and adjusters, insurers, actuaries, and insurance consultants.

SECTION 3. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A risk retention group seeking to be chartered in this state must be chartered and authorized as an insurance company under the insurance laws of this state and, except as provided elsewhere in this subtitle, must comply with all laws, regulations, and requirements applicable to such insurers chartered and authorized in this state.

SECTION 4. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Risk retention groups chartered in states other than this state, Bermuda, or the Cayman Islands and seeking to do business as a risk retention group in this state must:

(a) Register with the commissioner in this state;

(b) Designate the secretary of state as its agent for service of process and receipt of legal documents;

(c) No later than March 1st of each year, file with the commissioner of this state its annual statement as filed with the commissioner in the chartering state or the public official having supervision of insurance in the chartering jurisdiction;

(d) File a copy of the last examination, if any, made of the risk retention group, certified by the commissioner of the chartering state or the public official having supervision of insurance in the chartering jurisdiction; and

(e) File with the commissioner, on the date specified by the commissioner, the product liability loss experience data report required by the commissioner pursuant to KRS 304.3-240;

(2) Risk retention groups chartered in Bermuda or the Cayman Islands, in addition to the requirements of subsection (1) of this section, must:

(a) Be chartered or licensed and authorized to do business under the laws of Bermuda or the Cayman Islands before January 1, 1985;

(b) File with the commissioner of this state a copy of the certification filed with the commissioner of at least one (1) state that the risk retention group satisfies the capitalization requirements of that state, together with evidence that such certification has been accepted by the commissioner of that state as meeting the requirements of that state; and

(c) File, with the commissioner of the state in which it certifies its capitalization, a waiver of any secrecy laws of the jurisdiction in which it is chartered.

SECTION 5. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any person who is a resident of this state acting or offering to act as an agent as defined in KRS 304.9-020, for a risk retention group or any of its members in this state must obtain a license as an agent in accordance with subtitle 9 of this chapter;

(b) An agent duly licensed by another state and residing outside of this state may act as an agent for a risk retention group operating in this state or any of its members in this state in the same manner as a resident agent or broker upon obtaining a license in accordance with subtitle 9 of this chapter. The restrictions of KRS 304.9-140 on nonresident general lines insurance agents do not apply to nonresident agents for risk retention groups; and

(c) Any agent licensed in accordance with paragraph (a) or (b) of this subsection may be required by the commissioner to report to the commissioner the activities and scope of services they are providing to the risk retention group.

(2) Before placing business with a risk retention group, each agent shall secure from the appropriate insurance regulatory authority a certified copy of the certificate of authority verifying that such insurer is authorized in its domiciliary jurisdiction to write the product liability or completed operations liability insurance policy proposed to be procured from it by the agent.

(3) Every policy or contract of insurance placed by an agent with a risk retention group chartered or authorized in this state shall bear across its face in not less than 10-point boldface red-type the following legend:

"THE INSURANCE HEREBY EVIDENCED IS WRITTEN

BY A RISK RETENTION GROUP LICENSED BY THE

COMMONWEALTH OF KENTUCKY BUT IN THE EVENT

OF THE INSOLVENCY OF THIS RISK RETENTION

GROUP, IS NOT PROTECTED BY THE KENTUCKY

INSURANCE GUARANTY ASSOCIATION."

(4) Every policy or contract of insurance placed by an agent with a risk retention group not chartered or authorized in this state shall bear across its face in not less than 10-point boldface red-type the following legend:

"THE INSURANCE HEREBY EVIDENCED IS WRITTEN

BY A RISK RETENTION GROUP NOT LICENSED BY THE

COMMONWEALTH OF KENTUCKY, NOT SUBJECT TO

ITS SUPERVISION, AND NOT PROTECTED IN THE

EVENT OF INSOLVENCY OF THIS RISK RETENTION

GROUP BY THE KENTUCKY INSURANCE

GUARANTY ASSOCIATION."

SECTION 6. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Service providers who are not licensed agents must:

(a) Register with the commissioner; and

(b) Upon request by the commissioner, report the activities and scope of services which they are providing to the risk retention group.

(2) This section shall not be interpreted to allow service providers whose activities otherwise require licensing in this state to act on behalf of risk retention groups without such a license.

SECTION 7. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All risk retention groups shall be subject to taxation and shall be deemed to be insurers for the purpose of assessing and collecting taxes in accordance with the provisions of KRS 91A.080, 136.340, 136.350, 136.392, 304.10-180, and 304.11-050, as applicable.

(2) Agents shall cooperate in the reporting and payment of taxes upon premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.

(3) Failure of risk retention groups and agents to pay taxes in accordance with this section or to cooperate in accordance with this section is a ground for suspension or revocation of certificates of authority, licenses, or permission to do business in this state, imposition of civil penalties, or both.

SECTION 8. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A risk retention group shall not:

(1) Insure any risks other than those of its member companies;

(2) Provide any insurance or insurance-related service other than for product liability or completed operations liability unless it obtains the appropriate certificates of authority or licenses in this state and becomes subject to all the laws and regulations of this state with respect to those additional lines of insurance and related services; or

(3) Exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such person.

SECTION 9. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No risk retention group, with respect to its product liability or completed operations liability insurance, shall be permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds, receive any benefit from any such fund for claims arising out of the operations of the risk retention group for product liability or completed operations liability insurance.

SECTION 10. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A policy of insurance issued to a risk retention group or any member of a risk retention group shall not be required to be countersigned as provided in KRS 304.3-250.

SECTION 11. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A risk retention group doing business in this state shall be subject to all applicable unfair claims settlement practices laws and regulations as provided in KRS 304.3-200, 304.12-220, and 304.12-230.

SECTION 12. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A risk retention group chartered in this state must submit to examinations as deemed necessary by the commissioner to determine its financial condition.

(2) A risk retention group not chartered in this state, and doing business in this state, must submit to an examination if:

(a) The commissioner has reason to believe the risk retention group is in a financially impaired condition; and

(b) The commissioner of the state or the public official having supervision over insurance in the jurisdiction in which the risk retention group is chartered has not begun or has refused to initiate an examination of the risk retention group.

(3) Such examination shall be conducted in accordance with KRS 304.2-210 to 304.2-300.

SECTION 13. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A risk retention group chartered and authorized in this state must comply with all lawful orders issued in a delinquency proceeding commenced by the commissioner.

(2) A risk retention group not chartered in this state and doing business in this state must comply with a lawful order issued in a delinquency proceeding commenced by the commissioner if the commissioner of the state or the public official having supervision over insurance in the jurisdiction in which the risk retention group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under Section 12 of this Act.

SECTION 14. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A risk retention group doing business in this state which violates any applicable provision of this chapter will be subject to the penalties applicable to authorize insurers generally, including suspension or revocation of its certificate of authority or the right to do business in this state, imposition of civil penalties, or both.

(2) Subtitle 99 of this chapter applies to this subtitle.

SECTION 15. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall apply the fees set forth in KRS 304.4-010 to risk retention groups. Subtitle 4 of this chapter applies to this subtitle.

SECTION 16. A NEW SECTION OF SUBTITLE 45 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate reasonable regulations necessary for, or as an aid to the effectuation of, this subtitle.

HB 544, AN ACT relating to pawnbrokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 226.080 is amended to read as follows:

Any pawnbroker, as defined in KRS 226.010, may, in loaning money on deposit of personal property, charge, contract for or receive interest at a rate not exceeding *two percent (2%)* [~~three and one-half percent (3 1/2%)~~] per month on the unpaid principal balance of the loan, and may, in purchasing personal property on condition of selling the property back again at a stipulated price, fix such stipulated resale price at a sum not exceeding an amount equal to the price at which the property was purchased plus interest at the rate of *two percent (2%)* [~~three and one-half percent (3 1/2%)~~] per month, *except that the pawnbroker may charge, contract for and receive a reasonable fee for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers and for other expenses, losses and incidental costs associated with servicing the loan. It is further provided that such fee when made and collected shall not* *be deemed interest for any purpose of law.* No pawnbroker shall directly or indirectly charge, receive or contract for any interest or consideration greater than that allowed by this section.

The Committee Substitute to HB 544 is as follows:

HB 544, AN ACT relating to pawnbrokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 226.080 is amended to read as follows:

Any pawnbroker, as defined in KRS 226.010, may, in loaning money on deposit of personal property, charge, contract for or receive interest at a rate not exceeding *two percent (2%)* [~~three and one-half percent (3 1/2%)~~] per month on the unpaid principal balance of the loan, and may *charge, contract for and receive a reasonable fee for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers and for other expenses, losses and incidental costs associated with servicing such loans. It is further provided that such fee when made and collected shall not be deemed interest for any purpose of law* [~~, in purchasing personal property on condition of selling the property back again at a stipulated price, fix such stipulated resale price at a sum not exceeding an amount equal to the price at which the property was purchased plus interest at the rate of three and one-half percent (3 1/2%) per month~~]. No pawnbroker shall directly or indirectly charge, receive or contract for any interest or consideration greater than that allowed by this section.

HB 564, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.021 is amended to read as follows:

(1) No county clerk shall issue a registration for renewal for any motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are due and have not been paid.

(2) No county clerk shall issue a *certificate of* registration [~~renewal~~] for any motor vehicle which is not insured in compliance with KRS 304.39-080. Each applicant for registration [~~renewal~~] shall present proof of compliance to the county clerk in a manner prescribed in regulations issued by the department of insurance.

The Committee Amendment No. 1 to HB 564 is as follows:

Amend printed copy of HB 564:

On page 1, lines 7 and 9, after "*registration*" on each line insert "*and/or renewals*".

The Committee on Education reported HB 209, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to the Kentucky distinguished student recognition and scholarship award program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky higher education assistance authority may expend such funds as appropriated and exercise the powers otherwise granted to administer the Kentucky distinguished student recognition and scholarship award program to reward academic excellence among the states' talented students by providing financial assistance to encourage attendance at the state's public universities and community colleges. Awards and scholarships shall be offered to students who demonstrate the highest potential for successful college study. Recognition awards shall be awarded only once to an individual and shall come solely from the authority. Scholarships shall be an equal match of funds between the authority and the university and may be offered annually to eligible students.

(2) (a) The governor shall appoint a nine (9) member advisory board whose members are representative of the geographic regions of the state and have varied university affiliations. Members shall be appointed for a term of four (4) years though the initial appointments may be less than four (4) years to establish staggered terms. The board shall elect a chairman at its first meeting and annually thereafter. The executive director of the authority, or his designee, shall serve as secretary to the board. The board shall meet at least bi-annually and more often as necessary. Members shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employes. Members may be reappointed to the board.

(b) The board shall promulgate regulations for the administration of the award and scholarship programs and monitor the student selection process. The regulations shall include but not be limited to the following:

1. Eligibility requirements which shall include requirements that students must be Kentucky citizens and must have declared an intention to attend one (1) of the state's public universities or community colleges;

2. Award selection criteria;

3. Award amounts;

4. Selection committee, qualifications and duties;

5. Fund distribution formula;

6. Application deadlines; and

7. Administrative procedures.

(3) (a) Kentucky high school students who take one (1) of the tests required for admission to the state's public institutions of higher education in the spring or summer as a junior or in the fall as a senior shall automatically become part of the applicant pool for awards. Students scoring in the ninety-eighth (98th) or ninety-ninth (99th) percentile on these tests shall receive invitations to submit applications for a recognition award and a scholarship award. Other Kentucky high school graduates who have scores in the ninety-eighth (98th) or ninty-ninth (99th) percentile on prior years' tests and who have not attended college may apply for the awards.

(b) The authority shall present recognition awards to the highest ranking students. The amount and number of awards shall be determined by the advisory board and shall depend on the amount of funds available.

(c) The scholarships shall be an equal match between authority funds and university funds which may include any form of gift aid except state grant funds.

(d) The authority shall forward the list of potential applicants to all the state's public institutions for recruitment purposes. Each institution shall be allowed to recruit its own students and shall receive a proportionate share of the authority's available matching funds based on its percentage of the statewide student enrollment in public institutions. Funds not used by an institution by a certain date as established by regulation shall revert to the authority to be redistributed to other institutions.

The Committee Substitute to HB 209 is as follows:

HB 209, AN ACT relating to the Kentucky distinguished student recognition and scholarship award program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky higher education assistance authority may expend such funds as appropriated and exercise the powers otherwise granted to administer the Kentucky distinguished student recognition and scholarship award program to reward academic excellence among the state's talented students by providing financial assistance to encourage attendance at the state's public universities, nonprofit degree granting colleges, and community colleges. Awards and scholarships shall be offered to students who demonstrate the highest potential for successful college study. Recognition awards shall be awarded only once to an individual and shall

come solely from the authority. Scholarships shall be an equal match of funds between the authority and the university and may be offered annually to eligible students.

(2) (a) The governor shall appoint a nine (9) member selection committee whose members are representative of the geographic regions of the state and have varied university affiliations. Members shall be appointed for a term of four (4) years though the initial appointments may be less than four (4) years to establish staggered terms. The selection committee shall elect a chairman at its first meeting and annually thereafter. The executive director of the authority, or his designee, shall serve as secretary to the committee. The committee shall meet at least semi-annually and more often as necessary. Members shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employes. Members may be reappointed to the committee;

(b) The authority shall promulgate regulations for the administration of the recognition award and scholarship programs. The regulations shall include but not be limited to the following:

1. Eligibility requirements which shall include requirements that students must be Kentucky citizens who have declared an intention to attend a participating institution;

2. Award selection criteria including, but not limited to, the student's rank in his class, grade point average, leadership and service potential, and the submission of a written essay;

3. Award amounts;

4. Selection committee, qualifications and duties;

5. Fund distribution formula;

6. Application deadlines; and

7. Administrative procedures.

(3) The applicant pool for the recognition and scholarship awards shall be made up of the following Kentucky students:

(a) High school students who take one (1) of the tests required for admission to the state's public institutions of higher education in the spring or summer as a junior or in the fall as a senior shall automatically become part of the applicant pool for awards. Students scoring in the ninety-eighth (98th) or ninety-ninth (99th) percentile on these tests shall receive invitations to submit applications for a recognition award and a scholarship award;

(b) High school students nominated by the principal of an accredited high school which is not represented by a student described in paragraph (a) of this subsection. The nominees shall receive an invitation to apply for the awards; and

(c) High school graduates who have scores in the ninety-eighth (98th) or ninty-ninth (99th) percentile on prior years' tests and who have not attended college may apply for the awards.

(4) The authority shall present recognition awards to the highest ranking students in accordance with the award selection criteria. The amount and number of awards shall be determined by the authority and shall depend on the amount of funds available. No more than twenty percent (20%) of the awards shall be awarded to students who choose to attend a nonpublic institution; and

(5) The scholarships shall be an equal match between authority funds and institutional funds which may include any form of gift aid except state grant funds.

The Committee on Judiciary-Civil reported HB 483, SB 69 and SB 92 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 483, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.070 is amended to read as follows:

The Sixteenth Judicial District is entitled to *five (5)* [~~four (4)~~] district judges and shall have *five (5)* [~~four (4)~~] numbered divisions of the district court.

SB 69, AN ACT relating to delinquent property tax collection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91.4882 is amended to read as follows:

(1) Any action brought pursuant to KRS 91.488 to 91.4885 shall constitute an action in rem and the pleadings therein shall consist of a petition and an answer or answers.

(2) An answer may be filed by any person or taxing authority owning or claiming any right, title or interest in or to any tax bill constituting a tax lien on the real estate described in the petition or by any person owning or claiming any right, title, or interest in or to, or lien upon, such real estate. An answer shall include the nature and amount of the interest and any defense or objection to the enforcement of the tax liens listed in the petitions, and may include the allegations usually incorporated by the appropriate pleadings.

(3) Any answers shall contain the caption and number of the case, and the count number or numbers, as set out in the petition, of the parcels of real estate concerned. Such answer must be filed with the circuit court clerk and a copy thereof served on the collector not later than fifty (50) days after the date of the first publication of the notice of enforcement.

(4) In the event of failure to answer within said fifty (50) day period, a default judgment may be taken on all parcels of real estate for which no answer has been filed.

(5) Any taxing authority owning or claiming any interest, right or title in or to any tax bill constituting a tax lien on the real property described in the petition filed pursuant to KRS 91.4881 may file a crossclaim using the provisions of KRS 91.484 through 91.527, notwithstanding the provisions of KRS 134.010 et. seq.

Section 2. KRS 91.4884 is amended to read as follows:

(1) The collector shall also cause to be prepared and mailed by first class mail, certified by a U.S. postal service certificate of mailing, within thirty (30) days after the filing of such petition, a brief notice of the filing of the suit to any taxing authority or person of record owning or holding any tax bills or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition. [~~The failure of the collector to mail the notice, or the failure of the taxing authority or person of record owning any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate, as set out in the petition, to receive such notice shall not affect the validity of any proceedings brought pursuant to the provisions of KRS 91.484 to 91.527.~~]

(2) The notice shall be substantially as follows:

To the person to whom this notice is addressed:

Public records indicate that you may own or claim some right, title, or interest in or to, or hold a lien upon a certain parcel of real estate located at (here insert the street address and the property valuation administrator's tax parcel number) and set out in count number ________ in a certain petition bearing Action No. ________ filed in the Circuit Court of ____________ County, Kentucky at ____________ (city) on _______, 19 ___, wherein an enforcement of the liens of various delinquent tax bills is sought and a court order asked for the purpose of selling said real estate at a public sale for payment of all delinquent tax bills, together with interest, penalties, and costs. Publication of notice of such enforcement was commenced on the _____ day of _______, 19____, in ____________ (here insert name of city).

Public records in the office of the county clerk or other public office indicate you may own or claim some interest in this parcel by reason of (Here insert specific reference to any public document of record as disclosed in a thorough examination of title status.).

Unless all delinquent city taxes are paid upon the parcel of real estate described in said petition and unless the owners of said real estate shall either have discharged any city tax liens or satisfied any judgment rendered on said liens in favor of the city, prior to the time of the enforcement sale of such real estate by the master commissioner, or within sixty (60) days after the sale if the purchase price at sale is less than the parcel's certified assessed value, the owner or any taxing authority or person of record claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate shall be forever barred and foreclosed of all right, title and interest and equity of redemption in and to such parcel of real estate; provided, however, that any such person shall have the right to file an answer in said suit on or before the _____ day of _______, 19___, in the office of the circuit court clerk and copy thereof to the city of ___________, in accordance with the Kentucky rules of civil procedure, setting forth in detail the nature and amount of the interest and any defense or objection to the enforcement.

Dated _______, 19___

_______________________________, Kentucky
(Name of city)

____
Attorney

____

____

____
Address

____
Phone

Section 3. KRS 91.501 is amended to read as follows:

(1) Any suit to collect delinquent tax bills which may be pending at the time of the commencement of any suit brought under the provisions of KRS 91.484 to 91.527, affecting the same land, shall be consolidated with such suit brought under KRS 91.484 to 91.527. The parties to the pending suit shall file answers, but any tax bill sought to be collected in any pending suit may be included in any list included as a part of any petition filed by the collector. If so included, the inclusion shall act as an abatement of any pending suit, and all amounts then due on any such tax bill, including interest, penalties and costs, shall be listed and charged, and shall continue in force the liens against the respective parcel of real estate listed in the petition filed pursuant to the provisions of KRS 91.484 to 91.527. When so listed and included in the petition, no answer shall be required to be filed in the collector's suit to collect the delinquent bills.

(2) Any suit brought under the provisions of KRS 91.484 to 91.527, involving delinquent tax bills sought to be collected by any suit pending at the time suit is brought under KRS 91.484 to 91.527, shall be tried as all other actions, and the statute of limitations shall not prevent the parties to such pending suit from asserting all rights and defenses which they then have.

(3) Any crossclaim of a taxing authority under KRS 91.484 to 91.527 may include a claim for the immediate enforcement of any ad valorem tax owed to the taxing authority, notwithstanding the provisions of KRS 134.010 et. seq.

SB 92, AN ACT relating to oral history interviews.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) A state agency or institution which obtains an oral history interview for historical purposes may enter into a reasonable and mutually acceptable written agreement of confidentiality with the interviewee with regard thereto.

(2) An oral history interview which has been obtained under a written agreement of confidentiality shall remain confidential and shall not be public information until the conditions of the agreement have been met, at which time it shall become public information.

(3) An oral history interview for which no written agreement of confidentiality has been made shall be public information and shall not be confidential.

(4) This Act shall be deemed to be retroactive and shall apply with equal force to oral history interviews for which a written agreement of confidentiality was obtained prior to the effective date of this Act.

The Committee on Transportation reported HB 126 with Committee Substitute attached thereto, HB 32 with Committee Amendment attached thereto, and HB 420 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on the amount of gasoline and at the same rate on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) of this section, on the amount of gasoline and special fuels used in operations on public highways of this state.

(3) [~~(a) In addition to the tax imposed in subsections (1) and (2) of this section, every motor carrier shall pay the weight distance tax as set forth in this section on the amount of gasoline and special fuels in operations on the public highways of this state.~~

~~(b) The weight distance tax shall be computed as follows on the combined licensed weight of the motor vehicle and trailers or semitrailers as defined in KRS 138.665: The rate shall be two and eighty-five hundredths cents (.0285) per mile, for combined licensed weights in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds.~~

~~(4)~~] The tax levied under subsections (1), [~~(2)~~] and *(2)*[~~(3)~~] of this section shall be computed and paid as provided in KRS 138.690.

(4) (a) In addition to the tax imposed in subsection (1) of this section, every motor carrier shall pay for each vehicle with a combined license weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds an annual supplemental highway user fee according to the following annual mileage class schedule:

Annual Mileage Class	*User Fee*
Less than 10,000 miles	*$150*
10,000—19,999	*$160*
20,000—29,999	*$170*
30,000—39,999	*$180*
40,000 and over	*$200*

However, only one (1) fee shall be paid per vehicle per year.

(b) The fee imposed under this section is in addition to any other taxes or registration fees imposed on motor carriers.

(c) Privately owned and operated motor vehicles used only for the transportation of excavating equipment shall be exempt from the provisions of this section.

(5) (a) The secretary of the transportation cabinet shall issue a fee permit and an emblem to a carrier who applies for a permit, pays to the secretary the fee, and provides such information as is required by the secretary.

(b) The permit and emblem are effective from April 1 each year through March 31 of the succeeding year. The secretary of the transportation cabinet may extend the expiration date for no more than thirty (30) days. If the secretary grants an extension of the expiration date, the motor carrier shall continue to display the emblem upon which the extension was granted.

(c) The secretary of the transportation cabinet may issue a temporary fee permit to a carrier who applies for a temporary permit, pays to the secretary a fee of fifty dollars ($50), and provides such information as is required by the secretary. The temporary fee permit shall be valid for a ten (10) consecutive day period.

(6) Every motor carrier shall maintain the permit and emblem with the vehicle for which the permit is issued and shall affix the emblem to the vehicle in the manner prescribed by the secretary of transportation. The permit and emblem may be used or displayed only on the vehicle for which the permit was issued.

(7) (a) The secretary of transportation, upon notice and hearing, may revoke the fee permit held by a motor carrier.

(b) The secretary may impound the motor vehicle of a carrier whose permit has been revoked and who continues to operate the vehicle after having been notified by the secretary of the revocation. The secretary may retain possession of the vehicle until the motor carrier fully complies with the provisions of this Act and pays all costs incurred in connection with the impounding and storage of the vehicle.

(c) The secretary shall reinstate a revoked permit when the operator:

1. Pays the fee owed, including any interest and penalties;

2. Is in compliance with the provisions of this section; and

3. Pays all costs incurred in connection with the impounding and storage of the vehicle.

(8) The secretary shall deposit all funds collected from the fee provided by this section plus any interest and penalties imposed with respect to the fee into the road fund.

Section 2. KRS 138.655 is amended to read as follows:

As used in KRS 138.655 to 138.725 and 138.990(17) and (18), unless the context requires otherwise:

(1) "Cabinet" means the transportation cabinet;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any commercial truck or commercial tractor-trailer combination having a total of three (3) or more axles. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsections (3) and (4) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(c) "Commercial" refers to any activity for business purposes;

(d) For the purposes of KRS 138.660*(4)*[~~(3)~~], motor carriers, trailers and semitrailers shall not mean a farm vehicle as defined in KRS 186.050(4).

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter; except that for the purposes of the taxes imposed under KRS 138.660(3), "quarterly" shall mean the period beginning July 15, 1982, and ending September 30, 1982 and each succeeding three (3) month period thereafter;

(14) "Combined licensed weight" shall mean the greater of:

(a) The declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or

(b) The highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

Section 3. KRS 138.665 is amended to read as follows:

(1) A license shall be required of each motor carrier or heavy equipment motor carrier subject to the provisions of KRS 138.660(1), (2), [~~and~~] (3) *and (4)* before he uses or continues to use the public highways of

this state, except the cabinet may issue a trip permit for each motor vehicle for a fee of twenty dollars ($20) for each permit.

(2) Application for a license or trip permit shall be made to the cabinet and shall contain such information as the cabinet deems necessary.

(3) Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the cabinet a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.655 to 138.725.

(4) The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the cabinet shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the cabinet, or if the cabinet is of the opinion that the person who makes the application does so as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the cabinet may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The cabinet shall keep and file all applications and bonds, with an alphabetical index thereof.

(8) Each holder of such license shall display such license number or other identification in the manner prescribed by the cabinet.

(9) The provisions of this section shall not apply to a nonresident motor carrier engaged in transporting passengers for hire in irregular route interstate charter or special operations, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 4. KRS 138.690 is amended to read as follows:

[~~(1)~~] The tax imposed by subsections (1) and (2) of KRS 138.660 shall be determined as follows: The total number of gallons of gasoline and special fuels used during the taxable period in the licensee's operations on the public highways in Kentucky shall be multiplied by the tax rate.

[~~(2) The tax imposed by KRS 138.660(3) shall be determined by the total number of miles driven during the taxable period in the licensee's operations on public highways in Kentucky and shall be multiplied by the combined licensed weight tax rate.~~]

Section 5. KRS 138.695 is amended to read as follows:

(1) Every licensee subject to the tax imposed by subsections (1)[~~, (2)~~] and *(2)* [~~(3)~~] of KRS 138.660 shall be entitled to a credit for each quarterly period beginning on and after July 1, 1980, equivalent to the tax rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on gasoline and special fuels purchased by such licensee during such period for use in its operations, provided such gasoline and special fuels were purchased in Kentucky during the same period and the tax imposed by KRS 138.220, 138.565, and 234.320 has been paid. Evidence of the payment of such tax in such form as may be required by or satisfactory to the cabinet shall be furnished by each such licensee claiming the credit herein allowed.

(2) The cabinet shall at the close of each quarterly period, ending September 30, December 31, March 31, and June 30, compute all credits granted by the cabinet during such quarter, which credits shall be except as provided in subsection (3), applied only to taxes due on the report filed for the next quarter.

(3) If the credit or credits referred to in subsections (1) and (2) would expire solely by reason of the lapse of time allowed in subsection (2), then the balance of any credit shall be refunded to the licensee, provided application therefor and all necessary information shall be filed with the cabinet within sixty (60) days after the time the credit would otherwise expire as provided in subsection (2) except a credit shall not be refunded to the licensee, where, as estimated by the cabinet, the cost to the cabinet of making the refund would exceed the amount of the refund.

(4) In order to facilitate administration of the credits and refunds allowed herein, the cabinet shall prescribe what records must be kept by the licensee or any other person and the cabinet shall also prescribe the form and content of said records and any reports to be made relative thereto.

Section 6. KRS 138.715 is amended to read as follows:

(1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.

(2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the cabinet in writing the reasons for failure to comply with KRS 138.655 to 138.725 and if the cabinet finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.

(3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the cabinet shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.655 to 138.725 for any particular quarter and assess and collect the amount of tax and penalties due.

(4) Any licensee who fails to make any report required under the provisions of KRS 138.655 to 138.725 within the time allowed may be required to pay a penalty of fifty dollars ($50) to be assessed and collected in the manner provided for the assessment and collection of taxes, or may be proceeded against in a civil action instigated by the cabinet. In addition, such licensee may be compelled to make the required return.

(5) In any action for the collection of taxes due under KRS 138.655 to 138.725 and any penalties or interest imposed in connection therewith, an assessment by the cabinet of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

(6) Any person who knowingly makes a false statement in an application for a fee permit or in an application for the refund of any fee claimed to have been erroneously paid under the provisions of KRS 138.660, or knowingly operates a motor vehicle without having both a fee permit and an emblem shall be subject to a fine of not less than two hundred and fifty dollars ($250.00) nor more than one thousand dollars ($1,000).

Section 7. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the transportation cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, fifteen and six-tenths percent (15.6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660, [~~and~~] 234.320, *and twenty-five percent (25%) of all amounts received from the imposition of the fee provided for in KRS 138.660(4)* shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 through 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance

of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

Section 8. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1980, six and seven-tenths percent (6.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660 (1) and (2), [~~and~~] 234.320 *and ten percent (10%) of all amounts received from the imposition of the fee provided for in KRS 138.660(4)* shall be set aside by the finance and administration cabinet for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.

(2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the department of highways, design, operations, and construction manuals.

(3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as described by the bureau of census tracts.

(4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

Section 9. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00

38,001-44,000	374.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(c) All motor vehicles with three (3) or more axles and used primarily for the transportation and delivery of coal shall pay an amount equal to seventy-five percent (75%) of the fee set out in paragraph (b) of this subsection.

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of

nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

Section 10. The following KRS sections are repealed:

138.661 Funding for implementation and administration of tax—Trust and agency fund account—Audit within three years—Regulations.

186.0571 Surtax exemption—Weight distance tax exemption.

The Committee Substitute to HB 126 is as follows:

HB 126, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on the amount of gasoline and at the same rate on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) of this section, on the amount of gasoline and special fuels used in operations on public highways of this state.

(3) [~~(a) In addition to the tax imposed in subsections (1) and (2) of this section, every motor carrier shall pay the weight distance tax as set forth in this section on the amount of gasoline and special fuels in operations on the public highways of this state.~~

~~(b) The weight distance tax shall be computed as follows on the combined licensed weight of the motor vehicle and trailers or semitrailers as defined in KRS 138.665: The rate shall be two and eighty-five hundredths cents (.0285) per mile, for combined licensed weights in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds.~~

~~(4)~~] The tax levied under subsections (1), [~~(2)~~] and *(2)*[~~(3)~~] of this section shall be computed and paid as provided in KRS 138.690.

(4) (a) In addition to the tax imposed in subsection (1) of this section, every motor carrier shall pay for each vehicle with a combined license weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds an annual supplemental highway users' tax.

(b) The annual supplemental highway users' tax shall be based upon estimated miles to be traveled by a vehicle in the Commonwealth for the succeeding year, using the total actual miles traveled from February 1 to January 31 of the preceding year. If no actual miles were traveled in the Commonwealth for the preceding year, the estimate shall be based upon reasonable expectations of miles to be traveled for the coming year. The annual supplemental highway users' tax shall be based upon the following schedule.

Annual Mileage Class	*User Fee*
Less than 10,000 miles	*$150*

10,000—19,999	*160*
20,000—29,999	*170*
30,000—39,999	*180*
40,000 and over	*200*

(c) The supplemental highway users' tax shall be paid prior to February 1, of each year.

(d) The tax imposed under this section is in addition to any other taxes or registration fees imposed on motor carriers.

(e) All funds collected from the tax provided in this section plus any interest and penalties imposed with respect to the fee shall be classified as road funds.

(5) (a) The secretary of the transportation cabinet shall issue a supplemental highway users' tax decal to a motor vehicle for which application has been made, and for which the fee as set forth in subsection (4)(b) has been paid. A decal shall be effective from February 1, of each year through January 31 of the following year. Application for a supplemental highway users' tax decal shall be made in a manner prescribed by the secretary.

(b) Every motor carrier shall affix the supplemental highway users' decal to the motor vehicle in the manner prescribed by the secretary of transportation cabinet. The decal may be used or displayed only on the vehicle for which it was issued.

(c) The secretary of the transportation cabinet may issue a temporary fee permit to a vehicle for which application for a temporary permit has been made and for which a fee of fifty dollars ($50) has been paid as is required by the secretary. The temporary fee permit shall be valid for a ten (10) consecutive day period and shall be in lieu of the payment of the supplemental highway users' tax as provided in subsection (4)(b).

(6) In the event the actual mileage traveled by a motor vehicle for the first fiscal year exceeds the estimate for that vehicle made pursuant to subsection (4)(b), the vehicle shall pay an additional users' tax according to the actual miles traveled. Any additional annual supplemental highway users' tax required under this section shall be paid on or before July 31 of the following fiscal year.

(7) The secretary may impound any motor vehicle subject to the provision of KRS 138.685 for which a tax payment decal has not been purchased or is not properly displayed. The secretary may retain possession of the vehicle until the motor vehicle is in full compliance with the provisions of this Act and all costs incurred in connection with the impoundment and storage of the vehicle have been paid by the motor carrier.

Section 2. KRS 138.655 is amended to read as follows:

As used in KRS 138.655 to 138.725 and 138.990(17) and (18), unless the context requires otherwise:

(1) "Cabinet" means the transportation cabinet;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any commercial truck or commercial tractor-trailer combination having a total of three (3) or more axles. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsections (3) and (4) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(c) "Commercial" refers to any activity for business purposes;

(d) For the purposes of KRS 138.660*(4)*[~~(3)~~], motor carriers, trailers and semitrailers shall not mean a farm vehicle as defined in KRS 186.050(4).

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter; except that for the purposes of the taxes imposed under KRS 138.660(3), "quarterly" shall mean the period beginning July 15, 1982, and ending September 30, 1982 and each succeeding three (3) month period thereafter;

(14) "Combined licensed weight" shall mean the greater of:

(a) The declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or

(b) The highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

Section 3. KRS 138.665 is amended to read as follows:

(1) A license shall be required of each motor carrier or heavy equipment motor carrier subject to the provisions of KRS 138.660(1), (2), and *(4)* [~~(3)~~] before he uses or continues to use the public highways of this

state, except the cabinet may issue a trip permit for each motor vehicle for a fee of twenty dollars ($20) for each permit.

(2) Application for a license or trip permit shall be made to the cabinet and shall contain such information as the cabinet deems necessary.

(3) Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the cabinet a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.655 to 138.725.

(4) The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the cabinet shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the cabinet, or if the cabinet is of the opinion that the person who makes the application does so as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the cabinet may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The cabinet shall keep and file all applications and bonds, with an alphabetical index thereof.

(8) Each holder of such license shall display such license number or other identification in the manner prescribed by the cabinet.

(9) The provisions of this section shall not apply to a nonresident motor carrier engaged in transporting passengers for hire in irregular route interstate charter or special operations, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 4. KRS 138.685 is amended to read as follows:

(1) Every licensee shall file with the cabinet, on forms prescribed by the cabinet, a quarterly tax return. The return shall be made under penalty of perjury and shall show such information as the department may require. The licensee shall file the return on or before the last day of the next succeeding calendar month following the quarterly period to which it relates.

(2) The quarterly tax return shall be accompanied by a remittance covering the tax due.

(3) Every person subject to the provision of KRS 138.660(4) shall be responsible for the correction, if necessary, of the estimated mileage traveled within the Commonwealth for the preceding year as required by KRS 138.660(6). The statement of the actual mileage traveled by a motor vehicle for the fiscal year which exceeds the estimate for that vehicle shall be made on or before the thirty-first day following the end of the fiscal year.

(4) The statement of actual mileage traveled by a motor vehicle exceding the estimate for that vehicle shall be accompanied by the additional users' tax consistent with the actual mileage traveled.

Section 5. KRS 138.690 is amended to read as follows:

[~~(1)~~] The tax imposed by subsections (1) and (2) of KRS 138.660 shall be determined as follows: The total number of gallons of gasoline and special fuels used during the taxable period in the licensee's operations on the public highways in Kentucky shall be multiplied by the tax rate.

[~~(2) The tax imposed by KRS 138.660(3) shall be determined by the total number of miles driven during the taxable period in the licensee's operations on public highways in Kentucky and shall be multiplied by the combined licensed weight tax rate.~~]

Section 6. KRS 138.695 is amended to read as follows:

(1) Every licensee subject to the tax imposed by subsections (1)[~~, (2)~~] and *(2)* [~~(3)~~] of KRS 138.660 shall be entitled to a credit for each quarterly period beginning on and after July 1, 1980, equivalent to the tax rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on gasoline and special fuels purchased by such licensee during such period for use in its operations, provided such gasoline and special fuels were purchased in Kentucky during the same period and the tax imposed by KRS 138.220, 138.565, and 234.320 has been paid. Evidence of the payment of such tax in such form as may be required by or satisfactory to the cabinet shall be furnished by each such licensee claiming the credit herein allowed.

(2) The cabinet shall at the close of each quarterly period, ending September 30, December 31, March 31, and June 30, compute all credits granted by the cabinet during such quarter, which credits shall be except as provided in subsection (3), applied only to taxes due on the report filed for the next quarter.

(3) If the credit or credits referred to in subsections (1) and (2) would expire solely by reason of the lapse of time allowed in subsection (2), then the balance of any credit shall be refunded to the licensee, provided application therefor and all necessary information shall be filed with the cabinet within sixty (60) days after the time the credit would otherwise expire as provided in subsection (2) except a credit shall not be refunded to the licensee, where, as estimated by the cabinet, the cost to the cabinet of making the refund would exceed the amount of the refund.

(4) In order to facilitate administration of the credits and refunds allowed herein, the cabinet shall prescribe what records must be kept by the licensee or any other person and the cabinet shall also prescribe the form and content of said records and any reports to be made relative thereto.

Section 7. KRS 138.715 is amended to read as follows:

(1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.

(2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the cabinet in writing the reasons for failure to comply with KRS 138.655 to 138.725 and if the cabinet finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.

(3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the cabinet shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.655 to 138.725 for any particular quarter and assess and collect the amount of tax and penalties due.

(4) Any licensee who fails to make any report required under the provisions of KRS 138.655 to 138.725 within the time allowed may be required to pay a penalty of fifty dollars ($50) to be assessed and collected in the manner provided for the assessment and collection of taxes, or may be proceeded against in a civil action instigated by the cabinet. In addition, such licensee may be compelled to make the required return.

(5) In any action for the collection of taxes due under KRS 138.655 to 138.725 and any penalties or interest imposed in connection therewith, an assessment by the cabinet of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

(6) Any person who operates a motor vehicle required by KRS 138.660(4) to pay an annual supplemental

highway users' tax without having purchased or properly displayed a tax decal shall be subject to a fine of not less than two hundred and fifty dollars ($250.00) nor more than one thousand dollars ($1,000).

Section 8. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660(1) and (2) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the transportation cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, fifteen and six-tenths percent (15.6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660, [~~and~~] 234.320, *and twenty-five percent (25%) of all amounts received from the imposition of the fee provided for in KRS 138.660(4)* shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 through 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

Section 9. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1980, six and seven-tenths percent (6.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660(1) and (2), [~~and~~] 234.320 *and ten percent (10%) of all amounts received from the imposition of the fee provided for in KRS 138.660(4)* shall be set aside by the finance and administration cabinet for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.

(2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the department of highways, design, operations, and construction manuals.

(3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as described by the bureau of census tracts.

(4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

Section 10. The following KRS sections are repealed:

138.661 Funding for implementation and administration of tax—Trust and agency fund account—Audit within three years—Regulations.

186.0571 Surtax exemption—Weight distance tax exemption.

Section 11. The effective date of this Act shall be January 31, 1987.

HB 32, AN ACT relating to traffic.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Every motor vehicle that has a declared gross weight in excess of ten thousand pounds (10,000) pounds shall, while operating on the public highways of the state, be equipped behind the rearmost wheels with real fender splash guards, mud flaps, or mudguards in order to prevent the splashing of mud, water, rocks, dirt or other substances on the windshields or body of following motor vehicles. The rear fender splash guards, mud flaps, or mudguards shall be as wide as the full tread width of the tires or tires being protected and shall be so

installed that they extend from the underside of the vehicle in a vertical plane behind each wheel to no more than twelve (12) inches above the roadway surface.

(2) For this section only, the term "motor vehicle" shall not include pole trailers or motor vehicles registered under the provisions of KRS 186.050(4), relating to farm trucks.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, *Section 1 of this Act* and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two (2) cents per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three (3) cents per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five (5) cents per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven (7) cents per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine (9) cents per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10)

nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

The Committee Amendment to HB 32 is as follows:

Amend printed copy of HB 32:

on page 1, line 17, after the words "*trailers*" by deleting the word "*or*" and inserting a "," in lieu thereof.

on page 1, line 19, after the word "*trucks*" add the following language: "*or recreational vehicles and motor homes whether or not they exceed ten thousand (10,000) pounds gross vehicle weight*".

HB 420, AN ACT relating to motor vehicle operators' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.480 is amended to read as follows:

(1) The state police may examine every unlicensed applicant for an operator's license except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the state police agree to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. *The provisions of this subsection shall not apply to an applicant who, at the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident.*

(2) Any person whose operator's license is denied, suspended or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination.

Representative Blevins moved to suspend the rules to act on a Resolution. Agreed.

Representative Blevins moved the adoption of the following HR 79:

HR 79, A RESOLUTION adjourning the House of Representatives in memory of Mary Sue Lucke.

WHEREAS, Mary Sue Lucke spent seventeen years at Morehead State University and was assistant professor of health, physical education and recreation there at the time of her recent death at age fifty-five; and

WHEREAS, Mary Sue Lucke served faithfully in classrooms in Kentucky, North Carolina, Virginia, and Tennessee as a coach of basketball and tennis and as an instructor of modern, social, and folk dance; and

WHEREAS, Mary Sue Lucke brought to her students and to the community the enthusiasm and optimism she displayed throughout her life; and

WHEREAS, her efforts, devotion, and accomplishments will long be remembered and her influence continue through her students;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does express its bereavement upon the loss of Mary Sue Lucke, and does extend to her family its heartfelt sympathy.

Section 2. That when the House does adjourn this day, February 11, 1986, it does so in memory of Mrs. Mary Sue Lucke.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the family of Mary Sue Lucke and to Morehead State University.

HR 79 was adopted by voice vote.

Representative Turner moved the adoption of the following Legislative Citation No. 29. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors former Representative T. C. Simmons, of Scottsville, Kentucky. This body hails the gentleman from Allen County, for your leadership and active service to your district and the Commonwealth of Kentucky. All members of this House wish to extend their gratitude to you for your insight, counsel and your legislative aptitude which you shared. We recognize you for being a lifelong educator and exemplary citizen.

This prestigious body, therefore, accord proudly our esteen, affection and fondest wishes for health and happiness as we adjourn in your honor. (Sponsored by Representative Turner)

Representative Reinhardt moved the adoption of the following Legislative Citation No. 28. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds you, Harry Worthington and Rebecca Long Carloss on your 50th wedding anniversary, December 21, 1985. The great strength of your love and devotion to each other over the years is indeed a milestone that will be cherished by you, your children, Rebecca Page, James Dabney and Harry Worthington, Jr., as well as your entire family and friends that have shared these treasured times with you. We wish you good health and happiness on this day and throughout the coming years. (Sponsored by Representative Reinhardt)

Representative Morris moved to suspend the rules for posting of bills for consideration.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: HB 70 and HB 481.

Representative Little moved to reassign HB 525 to the Committee on Counties and Special Districts. Agreed.

Representative Burch moved to reassign HB 535 to the Committee on Judiciary-Criminal. Agreed.

Representative Burch moved to suspend the rules to Post a bill. Agreed.

The Clerk announced the following Bill has been posted for Committee consideration:

Health and Welfare: HB 447.

Motions, Petitions and Communications (continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 418, by Representative Blevins:

Amend printed copy of HB 418:

On page 2, line 26, by deleting the word "*shall*" and replacing it with the word "*may*."

Floor Amendment No. 1 to Committee Substitute for SB 98, by Representative Kerr:

Amend printed copy of Committee Substitute to SB 98:

On page 9, lines 6-7, delete lines 6 and 7 in their entirety and insert in lieu thereof: "*records, to personal contact by the child, or to both when he becomes an adult. If consent is then given, it can*".

The following meetings were announced:

Subcommittee—A and R on Health Service: Thursday, February 13, 1986, 10:00 a.m.

Natural Resources: Thursday, 9:00 a.m.

Judiciary-Criminal: Special Meeting: Room 105, February 13, 1986.

Subcommittee on Justice: Corrections Cabinet, Budget. Thursday, February 13, 1986, 10:00 a.m.

Transportation: Subcommittee: Thursday, February 13, 1986, on adjournment.

Budget Review: Subcommittee on General Government, Room 104, Wednesday, February 12, 1986, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 13, 1986.

On the roll call the vote was yeas 78—Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, F. Brown, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Crupper, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Jensen, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Williams, Worthington, Yates. Nays 6—Cowan, Deskins, Guenthner, Holbrook, R. Jones, Overstreet.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 13, 1986

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Holloway.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 11, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 37, SB 156, SB 211, SB 228, and SCR 30.

Report on Enrolled Bills

The Committee on Enrollment reported HB 47 had been examined and found correctly enrolled. HB 47 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:08 p.m.)

Report on Enrollment (continued)

HB 47 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 647, by Representative Stone: AN ACT relating to school buses.

HB 648, by Representatives Rose and Gedling: AN ACT relating to sales and use tax.

HB 649, by Representative Farrow: AN ACT relating to limitation of actions.

HB 650, by Representative L. Clark: AN ACT relating to disability retirement.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 645.

Appropriations and Revenue: HB 646.

Banking and Insurance: SB 155.

Business Organizations and Professions: HB 641.

Cities: HB 638, SJR 26, SB 35.

Education: SB 139.

Energy: HB 640.

Health and Welfare: HB 639.

Judiciary-Civil: HB 635.

Judiciary-Criminal: HB 637, HB 642.

Labor and Industry: HB 644, HJR 78.

State Government: SB 60, SB 154.

Transportation: HB 636, HB 643, HR 77, HJR 80, SB 162.

Report of Committees

The Committee on Rules reported HB 216 and HB 443 have been posted for passage in Orders of the Day, February, 14, 1986.

The Committee on Rules reported the following Bill has been recommitted:

State Government: HB 326.

The Committee on Energy reported SB 178 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 178, AN ACT relating to rural cooperative corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.180 is amended to read as follows:

(1) Any corporation formed under this chapter may be dissolved by filing articles of dissolution, which shall be entitled and indorsed "Articles of Dissolution of ...." and shall state:

(a) The name of the corporation and, if it is a consolidated corporation, the names of the original corporations.

(b) The date of filing of the articles of incorporation and, if the corporation is a consolidated corporation, the dates on which the articles of incorporation of the original corporations were filed.

(c) That the corporation elects to dissolve.

(d) The name and post-office address of each of its directors, and the name, title and post-office address of each of its officers.

(2) The articles of dissolution shall be subscribed and acknowledged in the same manner as original articles of incorporation, by the president or a vice-president and the secretary or an assistant secretary, who shall make and attach an affidavit stating that they have been authorized to execute and file the articles by a majority vote of *all of* the members [~~present and voting at the meeting at which the proposed dissolution is voted upon~~].

(3) Articles of dissolution shall be filed, recorded and approved in the same manner, and shall take effect upon approval, as is provided in KRS 279.040 for articles of incorporation.

(4) The corporation filing articles of dissolution shall continue in existence for the purpose of paying, satisfying and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs and may sue and be sued, contract and be contracted with in its corporate name. Any assets remaining after the liabilities and obligations of the corporation have been satisfied or discharged shall be ratably distributed to the members of the corporation.

The Committee on State Government reported HB 61, HB 70, HB 124 with Committee Substitute attached thereto, HB 176, HB 317 with Committee Amendment attached thereto, HB 423, HB 481, HB 497, HB 515, HB 586 and HCR 51 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to campaign finance regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in KRS *121.110* [~~121.100~~] to 121.200, and 121.990:

(1) "Registry," means the Kentucky registry of election finance.

(2) "Election," means any primary, regular or special election to fill vacancies.

(3) "Committee," means one of the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to any state, county, city or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of $1,000;

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; or

(d) An executive committee of a political party.

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by such groups in excess of one hundred dollars ($100) shall be reported to the registry.

(5) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious or educational.

(6) "Contribution," means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or political committee. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a political committee, candidate, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in excess of the contribution limit provided in KRS 121.150(5); or

(b) Payment by any person other than the candidate, his authorized treasurer, or political committees, of compensation for the personal services of another person which are rendered to a candidate's campaign; or

(c) Goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services; or

(d) Payment by any person other than the candidate, his authorized treasurer, or political committees for any goods, or services utilized in a candidate's campaign; or

(e) Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election; or

(f) Notwithstanding foregoing meanings of "contributions," the word shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business.

(7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, *except federal office*.

Section 2. KRS 121.120 is amended to read as follows:

(1) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint such other employes as are necessary to carry out the purposes of this chapter.

(2) It shall be the duty of the registry to conduct hearings with regard to possible violations and for the effectual carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter.

(3) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and *121.110* [~~121.100~~] to 121.200. Without limiting the generality of the foregoing the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(e) Preserve all reports for at least four (4) years from the date of receipt;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address and occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of *three* [~~one~~] hundred dollars *($300)* [~~($100)~~];

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) above;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140(2); make public the fact that a violation has occurred and the nature thereof;

(j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;

(k) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, or district office;

(l) Conduct audits of receipts and expenditures of all candidates running for statewide office;

(m) Candidates shall maintain their records for a period of four (4) years from the date of the general election in their respective political races;

(n) Make investigations with respect to reports upon complaint by any registered voter and to initiate proceedings on its own motion;

(o) [~~Adopt and promulgate in accordance with this subsection a "code of fair campaign practices";~~

~~(p)~~]Forward to the attorney general or to the appropriate commonwealth's attorney any violations of this chapter which may become the subject of civil prosecution.

Section 3. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of this law. Not later than five (5) days after the registry receives a sworn complaint, or after it decides to investigate on its own initiative, it shall give notice of the investigation to the person complained against. The person complained against shall be given five (5) days from receipt of notice of the investigation in which to respond to the complaint of alleged violations of this law. Not later than five (5) days after receipt of a response from the person complained against, the registry shall:

(a) Acknowledge receipt of the complaint to the complainant, where appropriate;

(b) Acknowledge receipts of the response from the person complained against; and

(c) Notify, in writing, the person who made the complaint and the person complained against of what action, if any, the registry has taken or plans to take on the complaint together with the reasons for such action or non-action. If the registry does not decide within five (5) days of receipt of the response what action to take, it shall notify the person who made the complaint of the reasons for the delay and shall subsequently give him the appropriate notification.

(2) When the registry concludes that there is probable cause to believe that the law has been violated, it may hold a hearing to determine if such violation has occurred. If a hearing is held, the person complained against may choose whether the hearing shall be open or closed. At the hearing, the person complained against shall have all of the protections of due process, including but not limited to the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. When the registry determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order to the violator to comply with any one or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law; or

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, *up to a maximum total fine of one thousand dollars ($1,000)*, for failure to file any report or other document or information required by law until such report, document or information is filed, *provided there shall be no maximum total fine for candidates for statewide office; or*

(d) To pay a penalty not to exceed one hundred dollars ($100) per violation for acts of noncompliance with provisions, other than reporting requirements, contained within this chapter.

(3) If the registry concludes that there is probable cause to believe that the law has been violated wilfully, it may refer such violation to the attorney general or to the appropriate local prosecutor for investigation and prosecution. The attorney general or the appropriate local prosecutor shall have responsibility for prosecutions under the law and may request from the registry all evidence collected in its investigation.

(4) Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the attorney general or to the appropriate local prosecutor for prosecution, may seek judicial review of such action.

(5) If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 4. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of *one hundred* [~~fifty~~] dollars *($100)* [~~($50)~~] received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) *No candidate nor committee, nor anyone on their behalf, shall accept more than four thousand dollars ($4,000) contributed by any one person in any one election.*

(6) No person *shall* [~~may~~] contribute more than *four* [~~three~~] thousand dollars *($4,000)* [~~($3,000)~~] to any one candidate in any one election.

(7)[~~(6)~~] No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

Section 5. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer *to act as his agent* at the time and at the office with which he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds;

(b) Keep detailed and exact accounts of contributions in general and by name, address, *age, if under legal voting age,* and occupation where the contribution exceeds *three* [~~one~~] hundred dollars *($300)* [~~($100)~~];

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of *one hundred*

[~~fifty~~] dollars *($100)* [~~($50)~~] shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180(2)(a).

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 121.015 and *121.110* [~~121.100~~] to 121.200 and those adopted by the registry.

Section 6. KRS 121.170 is amended to read as follows:

(1) Any committee organized, under any provisions of this chapter, shall register with the registry, by filing official notice of intention at the time of organization, giving names and addresses and positions of the officers of the organization and designating the candidate or candidates or question it is organized to support or oppose on forms prescribed by the registry.

(2) All provisions of KRS 121.015 and *121.110* [~~121.100~~] to 121.200 governing the duties and responsibilities of a candidate or campaign treasurer shall apply to a registered committee.

(3) The chairman of a committee and the campaign treasurer shall be separate persons.

Section 7. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, *age, if less than the legal voting age,* and occupation of each person or group contributing in excess of *three* [~~one~~] hundred dollars *($300)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of *one hundred* [~~fifty~~] dollars *($100)* [~~($50)~~] and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of *an opposed* [~~a~~] candidate, *who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000),* campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, *age, if less than the legal voting age,* and occupation of each person or group contributing in excess of *three* [~~one~~] hundred dollars *($300)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made, *including* [~~other than~~] "independent expenditures," as defined in KRS 121.150(1). The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of *one hundred* [~~fifty~~] dollars *($100)* [~~($50)~~], and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the *last* calendar quarter *of that year* [~~just prior to the due date of the first thirty-two (32) day, pre-primary reports~~]. *Such candidates and committees shall make all reports required by this section during the year in which the election takes place;*

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures*;*[~~.~~]

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election*;*[~~.~~]

(d) [~~All candidates and their campaign committees shall make reports within thirty (30) days after the election.~~

~~(e)~~] *All reports to the registry shall be postmarked within five (5) days of each filing deadline* [~~Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry~~].

(3) *All opposed candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election.*

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds *three* [~~one~~] hundred dollars *($300)* [~~($100)~~], the purchaser shall be identified by name, address, *age, if less than the legal voting age,* and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5)[~~(4)~~] Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the name, address, *age, if under the legal voting age,* and occupation of each person or group contributing in excess of *three* [~~one~~] hundred dollars *($300)* [~~($100)~~], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, *including* [~~other than~~] "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6)[~~(5)~~] If the final statement *of an opposed candidate* shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semi-annually, *to be postmarked within ten (10) days after* [~~thereafter on~~] June 30 and December 31 until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note, *except that an elected official who receives contributions subsequent to his election to retire his personal note, shall continue to file supplemental reports. All contributions made both prior and subsequent to the election shall be subject to the maximum individual contribution limit imposed by KRS 121.150.*

(6) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(7) If a candidate is unopposed in *an* [~~a primary or general~~] election after the time prescribed by law for qualifying for nomination or election to the office, *he shall not be required to file any* [~~and has received no~~

~~contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all~~] reports required by KRS 121.015 and *121.110* [~~121.100~~] to 121.200. *The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.*

(8) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving [~~any~~] contributions *in excess of three thousand dollars ($3,000)*, the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(9) No candidate as defined in this section, nor any committee as defined in this section shall use or permit the use of contributions or funds solicited or received for such person *or in support of a public issue* to further the candidacy of such person for a different public office *or to further a different public issue*. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further *a political issue or* the candidacy of a [~~such~~] person shall, at the election of the candidate or committee, *escheat to the state treasury,* be returned pro rata to all contributors or, *in the case of a partisan candidate,* be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds *to further the same political issue or* to seek election to the same office.

Section 8. KRS 121.200 is amended to read as follows:

The registry is required by KRS 121.015 and *121.110* [~~121.100~~] to 121.200 to securely keep all reports filed for four (4) years. Duly certified reports shall be admissible as evidence in any state court.

Section 9. KRS 121.220 is amended to read as follows:

(1) Each candidate and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or committee. The candidate or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and make expenditures from secondary depositories. Only a *financial institution* [~~bank~~] authorized to transact business in Kentucky may be designated as a campaign depository. The candidate or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited prior to the end of the fifth business day following their receipt in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." A statement showing the full name, address and occupation of each contributor of more than *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] shall be deposited together with a statement of the amount received. Cash contributions shall be accompanied by the same receipt form.

Section 10. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who wilfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who wilfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that wilfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who wilfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who wilfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who wilfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who wilfully violates any provision of KRS *121.110* [~~121.100~~] to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name;

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who wilfully violates any provision of KRS *121.110* [~~121.100~~] to 121.200, or whose campaign treasurer wilfully violates any provision of KRS *121.110* [~~121.100~~] to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the attorney general, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS *121.110* [~~121.100~~] to 121.200.

(12) The commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Prosecution for violation of any provision of KRS *121.110* [~~121.100~~] to 121.200, shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(14) Any person who wilfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(15) Any corporation that wilfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16) Any person who wilfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

Section 11. The following KRS section is repealed:

121.100 Applicability of statutes..

HB 70, AN ACT relating to state buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.440 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the state property and buildings commission.

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto.

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery or devices for the purpose of establishing, developing or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only if used or to be used by the Commonwealth of Kentucky or one of its departments or agencies (not including independent municipal corporations or political subdivisions).

(4) "Building project" includes the construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings, and the purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable, and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one of its departments or agencies, not including any independent municipal corporation or political subdivision.

(5) "State agency" means any state administrative body, agency, department or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision.

(6) "Department" means the department of finance.

(7) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

(8) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight.

(9) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

SECTION 2. A NEW SECTION OF KRS 56.440 to 56.590 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall cause an inspection to be made of all buildings owned, leased or operated by the Commonwealth for the presence of friable materials. If friable materials are found as a result of such inspection, the cabinet shall have samples of the friable materials analyzed for asbestos in accordance with testing methods established by the environmental protection agency, as provided in 40 CFR 763.109 as amended.

(2) When friable asbestos-containing materials are identified in a state building, a notice shall be conspicuously posted on each entrance to the building informing the users of the building of their presence. The notice shall include the following warning:

WARNING: THIS BUILDING HAS BEEN INSPECTED FOR FRIABLE (EASILY CRUMBLED) MATERIALS WHICH CONTAIN ASBESTOS. FRIABLE ASBESTOS-CONTAINING MATERIALS MAY CAUSE HEALTH PROBLEMS AND ARE PRESENT IN THIS BUILDING. A RECORD OF THE INSPECTION AND A DIAGRAM OF THE LOCATION OF FRIABLE ASBESTOS-CONTAINING MATERIALS ARE AVAILABLE IN ROOM ______ OF THIS BUILDING.

(3) The cabinet shall provide to all persons employed in state buildings found to contain friable asbestos-containing materials, a written notice of the location, by room or building area, of all friable asbestos-containing materials in the building.

(4) When friable asbestos-containing materials are not found as a result of inspection, the following notice shall be conspicuously posted on each entrance to the building:

THIS BUILDING HAS BEEN INSPECTED FOR FRIABLE (EASILY CRUMBLED) MATERIALS WHICH CONTAIN ASBESTOS. FRIABLE ASBESTOS-CONTAINING MATERIAL MAY CAUSE HEALTH PROBLEMS. THIS BUILDING DOES NOT CONTAIN FRIABLE ASBESTOS-CONTAINING MATERIALS.

(5) When inspections identify asbestos-containing material that is not friable, the cabinet shall cause an annual inspection of the building to be made to determine if the asbestos-containing material has become friable.

(6) When inspections identify asbestos in a building which has been enclosed or encapsulated to prevent its spread, a notice shall be posted in the custodial offices of the building informing maintenance personnel of the location of such materials.

(7) When asbestos-containing materials have been removed from a building, any notice previously posted in such building pursuant to this Act regarding the asbestos-containing materials so removed may be removed.

HB 124, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after

the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section, in KRS 83A.170 and section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal or when city legislative body members are to be elected at large and there are fewer nominees than there are such offices to be filled, the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ____________ request that the name of ____________ be placed before the voters of the city as that of a candidate for election for the office of ____________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	*Number*	*Street*

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

SECTION 2. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

Each county clerk shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector or member of the United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot, all records and papers relative to all the offices voted for in those precincts which relate to any application, registration or other act requisite to voting in such election. Such records and papers shall include voting registration records and all poll lists and similar documents reflecting the identity of voters casting ballots at the polls.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Each county clerk shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector or member of the

United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot, all records and papers relative to all the offices voted for in those precincts which relate to any act requisite to voting in such election. Such records and papers shall include all applications for absentee ballots, all envelopes in which absentee ballots are returned for tabulation, all lists of persons who return voted absentee ballots, all documents relating to challengers to voters or to absentee ballots, all documents containing oaths of voters, all tally and return sheets, all canvass reports, all ballots and ballot labels, all records reflecting the appointment of persons entitled to act as poll officials, and all computer programs utilized to tabulate votes electronically.

Section 4. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section *or as otherwise provided in this chapter concerning vacancies.*

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally, *except as otherwise provided in this chapter concerning vacancies.* Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled.If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of __________ request that the name of __________ be placed before the voters of the city as that of an applicant for nomination for the office of __________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Number	Street

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) [~~If before the time of certification provided in the election law generally, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the county clerk in writing, signed and properly notarized, that he will not accept the nomination, the county clerk shall not certify his name.~~

~~(9)~~] If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9)[~~(10)~~] If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10)[~~(11)~~] Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11)[~~(12)~~] Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12)[~~(13)~~] Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(13)[~~(14)~~] The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14)[~~(15) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.~~

~~(16)~~] At the regular election following a nonpartisan primary election, the names of the successful nominees *and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy* shall be placed before the voters.

(15)[~~(17)~~] The nominee *or candidate* receiving the greater number of votes cast for each city office shall be elected.

(16)[~~(18)~~] General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 5. KRS 116.155 is amended to read as follows:

All forms pertaining to registration and purgation shall be prescribed and furnished by the state board of elections. The registration form shall include the voter's name; date of birth; social security number, if any; address; and such other information as the state board of elections may deem necessary. *No person who fails to include his social security number shall be denied the right to register because of such failure.* All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 6. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk, and one (1) sheriff of election, who shall hold their offices for one (1)

year and until their successors are appointed. They shall serve in all elections held in the county during the year. The county executive committees of the two (2) political parties having representation on the state board of elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct except that in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed that one (1) of the judges at each voting place is of one (1) political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, except that where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, *brother, sister* or child of a candidate who is to be voted for at the election. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty (30) minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) Each election officer shall be paid a minimum of fifteen dollars ($15.00) per day, and such an additional amount as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding said election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition ten (10) cents for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

Section 7. KRS 117.058 is amended to read as follows:

The county board of elections shall not add *territory* to, delete *territory from,* or *otherwise* change the boundary of *any congressional, representative or,* [~~legislative and~~] senatorial *district* [~~districts identified by precinct name, number or ward,~~] without legislative approval to redefine the district *in the form of a legislative act changing the district's boundaries. Nothing in this section shall be deemed to prohibit the consolidation, creation or division of precincts within legislative and congressional district boundaries under KRS 117.055* [~~involved~~].

Section 8. KRS 117.085 is amended to read as follows:

(1) Any qualified voter in any county who will be absent from the county on any election day or any person incarcerated in jail that has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot, except that such application shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. The clerk shall type the name of the absent voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of compliance with residency requirements for voting in said precinct, and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the penalty provided in KRS 117.995(4) shall be printed on the application.

(2) Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed

forces, may apply for an absentee ballot by means of the federal post card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. Special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots. Special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request. The clerk shall cause the special ballot to be printed thirty (30) days prior to each primary or general election. The outer envelope shall bear the words "Absent Voter's Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and precinct number in the upper left hand corner of the absent voter's outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application *for twenty-two (22) months* [~~until thirty (30) days~~] after the election.

(4) A list of persons to whom absentee ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.

(5) Any person who has been mailed an absent voter's ballot but who shall be in his voting precinct on election day may cancel his absent ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his absent ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 9. KRS 117.087 is amended to read as follows:

(1) The challenge of an absent voter's ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of absent voters' ballots. The board shall open the boxes containing absent voters' ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the absent voter. All unsigned absentee ballots shall be rejected automatically. The *chairman of the county board of elections* [~~clerk~~] shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order the *chairman* [~~clerk~~] shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the *chairman* [~~clerk~~] shall then remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of an absent voter is read aloud by the *chairman* [~~clerk~~], the vote of such voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge thereto may be determined and the absentee vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the *chairman* [~~clerk~~] shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the absentee ballots from the inner envelopes, count and record the absentee ballot votes on a form provided by the state board.

(6) *Except as otherwise required by this chapter that certain records and papers relative to specified elections be retained for twenty-two (22) months,* the county clerk shall retain the ballots, detachable flaps and the outer envelopes for thirty (30) days, at which time they shall be *destroyed in such a manner as to render them unreadable* [~~burned~~] by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be *destroyed* [~~burned~~] but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

Section 10. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election, and at least thirty (30) days before any primary *or regular* election, [~~and at least fifteen (15) days before any regular election,~~] the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the finance and administration cabinet.

Section 11. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place *or within a fifty (50) foot perimeter of the voting machine* on election day unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis *a greater distance from the polling place within which* electioneering [~~and establishes the distance from the polling place where such electioneering~~] may be permitted, but in no case shall electioneering be allowed within a fifty (50) foot perimeter of the voting machine. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall maintain law and order

within a fifty (50) foot perimeter of the voting machine. Assistance may be requested of any law enforcement officer.

Section 12. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, *except that the voter's employer or agent of that employer or officer or agent of the voter's union shall not assist the voter.* The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. Voting booth shall mean an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

Section 13. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total votes cast for each candidate, and for and against each question, and the votes written in, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed

in an envelope. The sheriff and the judge from the opposite political party from the sheriff shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. *Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months,* the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be *destroyed in such a manner as to render them unreadable* [~~burned~~] by the county board of elections if no contest or recount action has been filed.

Section 14. KRS 117.305 is amended to read as follows:

The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless within ninety-six (96) hours after the close of the polls, the county clerk or county board of elections takes notice of a discrepancy in the talley of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the election *board* [~~commission~~] shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county clerk, in which event the canvass and return shall become the official returns for the election. In making the recanvass the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for this discrepancy shall be noted. The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified. *The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass.* At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.

Section 15. KRS 117.315 is amended to read as follows:

(1) [~~The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.~~

~~(2) Any school board candidate, independent candidate, candidate for an office of the court of justice, or independent ticket at the regular election may designate not more than one (1) challenger to be present at and witness the holding of the elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.~~

~~(3) Not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested to each committee not less than twenty (20) days~~

~~immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.~~

~~(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.~~

~~(5) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.~~

~~(6)~~] Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven (7) days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four (4) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the court of appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the court of justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(4) Not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested to each committee not less than twenty (20) days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county

judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

Section 16. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify [~~the amount of such expenses, indicating each item of expense separately, together with~~] a statement of the number of precincts in the county, the date and kind of election to the state board of elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the state board of elections shall issue its warrant upon the state treasurer in favor of the county treasurer for the amount of eighty-five dollars ($85.00) for each precinct in the county. All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the state property and buildings commission executed in connection with the acquisition of voting machines by the commission for the use of such county; and payments to any county shall be terminated whenever such county fails to pay any part of the rentals required for any effective period of the lease.

Section 17. KRS 117.383 is amended to read as follows:

The state board of elections shall prescribe rules and regulations which shall include but not be limited to the following:

(1) Achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting;

(2) Count, tabulate, and record votes;

(3) Establish a method for placing items on the electronic voting device, which shall, as closely as possible, follow the requirements pertaining to ballot labels;

(4) Design the ballot cards, including a numerical system to insure an accurate record of all voting activities;

(5) Instruct voters in the use of the voting device;

(6) Provide for checking the accuracy of the equipment;

(7) Provide necessary supplies, including those necessary for a write-in vote and secrecy envelopes for punch cards or data processing cards to insure voter privacy;

(8) As part of the official canvass, provide for a manual recount of randomly selected precincts representing 3%-5% of the total ballots cast in each election;

(9) Provide a method for maintaining sufficient documents and records so that votes can be recounted. Such

documents and records shall include any material other than a ballot card which is imprinted with the names of candidates and issues voted upon. Records shall be maintained in such a manner that a specific piece of printed material listing issues and candidates can be matched with the specific ballot cards which were marked in reliance upon such printed material. *Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months,* such documents and records shall be maintained for thirty (30) days following an election.

Section 18. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the following form:

Notification and Declaration

Of ______________ for nomination to the office of __________.

To __________ (county clerk or secretary of state, as case may be).

Commonwealth of Kentucky.

__________ County.

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the __________ Party, I, ______________ (name in full as desired on the ballot), do solemnly swear that I reside at No. _____ street in the City of __________, State of Kentucky, and that I am a registered __________ (party) voter in __________ precinct, City of __________; that I believe in the principles of the __________ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of __________ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

I further solemnly swear that I am a bona fide candidate for nomination and am honestly seeking the office for which this notification and declaration is filed; that I expect to make a campaign for the nomination and am not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public; that I am in no sense a pretended, fictitious or "dummy" candidate and am not filing as candidate for the purpose of influencing or controlling or attempting to influence or control a selection of challengers or inspectors or officers of election; that it is my honest purpose and intention to be and remain a candidate through the primary election; that I have not been persuaded, urged, solicited, influenced or induced to file this notification and declaration by any person in furtherance of the interests of any other candidate.

____
(Signature of candidate)

Subscribed and sworn to before me by __________, this _____ day of _________, 19____.

____
(Signature of officer)

____
(Title of officer)

My commission expires _________.

The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the following form:

Commonwealth of Kentucky.

__________ County.

We, __________ and __________, do solemnly swear that we are qualified electors and members of the __________ Party, and were affiliated with that party and supported its nominees at the last regular election; that we are residents and legal voters of the City of __________, County of __________, State of Kentucky; that we are personally acquainted with __________, who files the hereto attached notification and declaration, and we know him to be a discreet citizen and a member of the __________ Party, and that to the best of our knowledge and belief he has affiliated with and supported that party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration; that we believe him to be qualified to fill the office of __________; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public.

We do further solemnly swear that to the best of our knowledge and belief the said __________ is in good faith a candidate for nomination for said office, and that he is not merely becoming a pretended, fictitious or "dummy" candidate for the purpose of influencing or controlling the selection of challengers, inspectors or officers of election for the benefit or in the interest of any other candidate or group of candidates.

____
(Signature of affiants)

Subscribed and sworn to before me by __________ and __________, this _____ day of _______, 19____.

____
(Signature of officer)

____
(Title of officer)

My commission expires _________

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter, *except as provided in KRS 118.185.*

(5) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

Section 19. KRS 118.212 is amended to read as follows:

(1) If before the time of certification provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the secretary of state dies or notifies the secretary of state in writing, signed and properly notarized that he will not accept the nomination or election, the secretary of state shall not certify his name.

(2) If before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall not cause his name to be printed on the ballot.

(3) *If before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the secretary of state dies or notifies the secretary of state in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the*

secretary of state shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(4) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

Section 20. KRS 118.215 is amended to read as follows:

(1) Not less than eighty (80) days before a primary or sixty (60) days before a regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) *Except as otherwise provided in subsection (3) of this section,* all independent candidates whose nominating petitions are filed with the county clerk shall be *listed under the title and device* designated by *them as provided in KRS 118.315, or if none is designated, under* the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged with and designated by the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be clearly separated from other groups on the ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than sixty (60) days before the primary or forty (40) days before the general election. The state board of elections shall meet within five (5) days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 21. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, [~~or~~] member of the general assembly *or commonwealth's attorney*, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for an officer of a [~~precinct or ward, or other~~] division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. *Each* [~~No~~] petitioner shall *include* [~~be counted unless~~] his residence, social security number and post-office address [~~are designated~~]. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers [~~desire, and~~] are legally qualified, to vote for the candidate. *Except for municipal, school board and supervisor of soil and water conservation district races,* [~~The~~] petition *may* [~~shall~~] designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines. [~~This does not apply to municipal and school board races.~~]

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The secretary of state and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the secretary of state or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The state board of elections shall prescribe the forms for the petition.

Section 22. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates *for city* [~~to~~] offices, *for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts* [~~which are prohibited from utilizing a primary~~] shall be filed with the county clerk not less than seventy (70) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice-president of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and KRS 118.325, shall be filed as required with the secretary of state or county clerk not less than seventy (70) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to *three (3) months* [~~seventy (70) days~~] before the general election, shall be filed by such petitions not later than seventy (70) days prior to the general election.

(6) *Except as otherwise provided in this section,* petitions of nomination shall be filed as required with the secretary of state or county clerk not less than ninety (90) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than seventy (70) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than seventy (70) days prior to the date fixed by law for the election of such electors.

Section 23. KRS 118.385 is amended to read as follows:

(1) The secretary of state and county clerks shall preserve in their respective offices all certificates and petitions of nomination filed therein, for six (6) months after the election for which the nominations were made.

(2) Each county clerk and the secretary of state shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector or member of the United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot all records and papers relative to the voter returns for all the offices voted for in those precincts.

Section 24. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or special ballot more than once, *except that a candidate's name may appear twice if he is a candidate for a primary or a regular election and also a candidate to fill a vacancy in the same office required to be filled at a special election, when the special election to fill a vacancy is scheduled for the regular election day.*

Section 25. KRS 118.425 is amended to read as follows:

(1) The state board of elections shall issue certificates of election where the successful candidate was voted for by the state at large or by a district greater than one (1) county, or was a candidate for member of congress or the general assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of congress, members of the general assembly and designated officers filing with the state board of elections. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for such office and the total number of votes for and against each of such questions. The clerk shall keep one (1) of the certificates in his office. He shall not later than three (3) days after receiving such certificate from the board, forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(4) The state board of elections shall meet, to count and tabulate the votes received by the different candidates as certified to the secretary of state, when the returns are all in, or on the *third* [~~second~~] Monday after the election whether they are in or not, but if all the returns are not made, the right to contest an election shall not be impaired. *A majority* [~~Any two (2)~~] of the members of the board *shall constitute a quorum and* may act [~~in the absence of the third~~]. The board shall make out the certificates of election in the office of the board, from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in congress, an additional certificate shall be made and sent, by mail, to the clerk of the house of representatives.

(5) The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of president and vice president of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for president and vice president received the highest number of votes and the determination by the board that the candidates of any political party or organization for president and vice president have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

Section 26. KRS 118.445 is amended to read as follows:

The electors of president and vice president of the United States shall convene at the state capitol, at *11:45* [~~10:00~~] a.m. on the first Monday after the second Wednesday in December next after their election, give their votes at or after 12:00 noon, and make return thereof according to law. If any elector fails to attend by 12:00 noon, on the day of the meeting, those in attendance shall fill his place by the election of another person, who shall have the same powers as if originally elected by the people.

Section 27. KRS 118.710 is amended to read as follows:

Except as provided in KRS 120.205, when a vacancy happens in the office of governor, requiring an election, a proclamation therefor shall be issued by the chief justice of the Supreme Court, or if he is absent from the state or unable to act, by one (1) of the associate justices, *and shall be directed to the sheriffs.* The proclamation shall be published *by the sheriffs as required by KRS 118.750* [~~pursuant to KRS chapter 424~~].

Section 28. KRS 118.720 is amended to read as follows:

When an election is to be held to fill a vacancy in the office of representative in congress, a proclamation therefor, in lieu of a writ of election, shall be issued and signed by the governor *and shall be directed to the proper sheriffs.* The proclamation shall be published *by the sheriffs as required by KRS 118.750* [~~pursuant to KRS chapter 424~~].

Section 29. KRS 118.760 is amended to read as follows:

Nominations by political parties, as defined in KRS 118.015, to fill vacancies at special elections [~~to be held on days other than the regular election,~~] shall be made in such manner as may be determined by the governing authority of the party in the territory in which the election is to be held.

Section 30. KRS 118.770 is amended to read as follows:

When a writ of election is issued to fill a vacancy in the office of member of the general assembly or the office of member of congress, *independent* petitions and certificates of nomination may be filed ten (10) days before the day of election, and if filed with the secretary of state shall be immediately certified by him to the proper county clerks.

Section 31. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, eighty-eight (88) days before the primary election.

(5) [~~If before the time of certification provided in subsection (6) of this section, any candidate whose petition of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in~~

~~writing, signed and properly notarized, that he will not accept the nomination, the secretary of state shall not certify his name.~~

~~(6)~~] Not less than eighty (80) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6)[~~(7)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7)[~~(8)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8)[~~(9) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the nomination, the county clerk shall not cause his name to be printed on the ballot.~~

~~(10) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(11)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9)[~~(12)~~] The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10)[~~(13)~~] If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 32. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, sixty-eight (68) days before the regular election.

(2) [~~If before the time of certification provided in subsection (3) of this section, any candidate whose certificate of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.~~

~~(3)~~] Not less than sixty (60) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3)[~~(4)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4)[~~(5) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.~~

~~(6) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5)[~~(8)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 33. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and such candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (14) of this section.

(3) Each candidate shall file a petition for candidacy with the secretary of state at least seventy (70) days before the day fixed by law for holding the regular election.

(4) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, sixty-eight (68) days before the regular election.

(7) [~~If before the time of certification provided in subsection (8) of this section, any candidate whose petition for candidacy has been filed in the office of the secretary of state, dies or notifies the secretary of state in~~

~~writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.~~

~~(8)~~] Not less than sixty (60) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8)[~~(9)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9)[~~(10)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10)[~~(11) If before the ballots are printed, any candidate whose petition for candidacy has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.~~

~~(12) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(13)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11)[~~(14)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 34. KRS 118A.130 is amended to read as follows:

No judicial candidate's name shall appear on any voting machine or special ballot more than once, *except that a candidate's name may appear twice if he is a candidate for a regular election and also a candidate to fill a vacancy in the same office required to be filled at a special election, when the special election to fill a vacancy is scheduled for the regular election day.*

Section 35. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) *No county clerk shall knowingly cause to be printed on the ballot labels or special ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.*

(4) If *before the time of certification provided for in this chapter,* any candidate *whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the secretary of state in writing, signed*

and properly notarized, that he will not accept the nomination or election [~~withdraws before certification~~], the secretary of state shall not certify his name.

(5) If before the ballots are printed, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the secretary of state in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the secretary of state shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(6) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

Section 36. KRS 118A.190 is amended to read as follows:

(1) The state board of elections shall issue certificates of nomination or election for all primary and regular elections as provided in this section.

(2) Following a primary or regular election, the board of elections of each county shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and numbered division thereof if divisions exist. The board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the board, shall forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(3) When all the returns are received by the state board of elections, the board shall meet to count and tabulate the votes received by the different candidates as certified to the secretary of state. If all returns have not been received by the *third* [~~second~~] Monday after the primary or regular election, the board shall, nevertheless, proceed with its duties at that time. When the board certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. *A majority* [~~Any two (2)~~] of the members of the board *shall constitute a quorum and* may act [~~in the absence of the third~~]. The board shall prepare the certificates of nomination or election in the office of the board, from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the board members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board.

(4) Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

(5) The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

Section 37. The following KRS section is repealed:

118A.170 Ballot labels.

The Committee Substitute to HB 124 is as follows:

HB 124, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Candidates for an unexpired term of a nonpartisan city office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 83A.170 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after

the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section, in KRS 83A.170 and section 152 of the Constitution of Kentucky.

(2) If in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity or withdrawal or when city legislative body members are to be elected at large and there are fewer nominees than there are such offices to be filled, the election to fill the regular term shall be conducted in the manner prescribed by this section.

(3) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk, file with the county clerk a petition for candidacy signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of __________ request that the name of __________ be placed before the voters of the city as that of a candidate for election for the office of __________ at the general election to be held in our city on the date prescribed by law for the general election. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	*Street Address*	*Social Security Number*

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each candidate. If any voter signs more than one (1) petition of a candidate, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(6) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(7) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

SECTION 2. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

Each county clerk shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector or member of the United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot, all records and papers relative to all the offices voted for in those precincts which relate to any application, registration or other act requisite to voting in such election. Such records and papers shall include voting registration records and all poll lists and similar documents reflecting the identity of voters casting ballots at the polls.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Each county clerk shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector or member of the United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot, all records and papers relative to all the offices voted for in those precincts which relate to any act requisite to voting in such election. Such records and papers shall include all applications for absentee ballots, all envelopes in which absentee ballots are returned for tabulation, all lists of persons who return voted absentee ballots, all documents relating to challengers to voters or to absentee ballots, all documents containing oaths of voters, all tally and return sheets, all canvass reports, all ballots and ballot labels, all records reflecting the appointment of persons entitled to act as poll officials, and all computer programs utilized to tabulate votes electronically.

Section 4. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section *or as otherwise provided in this chapter concerning vacancies.*

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally, *except as otherwise provided in this chapter concerning vacancies.* Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled.If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ________ request that the name of ________ be placed before the voters of the city as that of an applicant for nomination for the office of ________ at the primary election to be held in our city on the date prescribed by law for primary elections generally. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	*Street Address* [~~Number~~]	*Social Security Number* [~~Street~~]

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled,

or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) [~~If before the time of certification provided in the election law generally, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the county clerk in writing, signed and properly notarized, that he will not accept the nomination, the county clerk shall not certify his name.~~

~~(9)~~] If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9)[~~(10)~~] If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(10)[~~(11)~~] Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11)[~~(12)~~] Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(12)[~~(13)~~] Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(13)[~~(14)~~] The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14)[~~(15) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.~~

~~(16)~~] At the regular election following a nonpartisan primary election, the names of the successful nominees *and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy* shall be placed before the voters.

(15)[~~(17)~~] The nominee *or candidate* receiving the greater number of votes cast for each city office shall be elected.

(16)[~~(18)~~] General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 5. KRS 116.155 is amended to read as follows:

All forms pertaining to registration and purgation shall be prescribed and furnished by the state board of elections. The registration form shall include the voter's name; date of birth; social security number, if any; address; and such other information as the state board of elections may deem necessary. *No person who fails to include his social security number shall be denied the right to register because of such failure.* All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 6. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk, and one (1) sheriff of election, who shall hold their offices for one (1) year and until their successors are appointed. They shall serve in all elections held in the county during the year, *except as provided in Chapter 242.* The county executive committees of the two (2) political parties having representation on the state board of elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct except that in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed that one (1) of the judges at each voting place is of one (1) political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, except that where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, *brother, sister* or child of a candidate who is to be voted for at the election. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty (30) minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) Each election officer shall be paid a minimum of fifteen dollars ($15.00) per day, and such an additional amount as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding said election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition ten (10) cents for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

Section 7. KRS 117.058 is amended to read as follows:

The county board of elections shall not add *territory* to, delete *territory from,* or *otherwise* change the boundary of *any congressional, representative or,* [~~legislative and~~] senatorial *district* [~~districts identified by precinct name, number or ward,~~] without legislative approval to redefine the district *in the form of a legislative act changing the district's boundaries. Nothing in this section shall be deemed to prohibit the consolidation, creation or division of precincts within legislative and congressional district boundaries under KRS 117.055* [~~involved~~].

Section 8. KRS 117.085 is amended to read as follows:

(1) Any qualified voter in any county who will be absent from the county on any election day or any person incarcerated in jail that has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot, except that such application shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. The clerk shall type the name of the absent voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of compliance with residency requirements for voting in said precinct, and the voter's mailing address for a special

ballot. The form shall be verified and signed by the voter. A notice of the penalty provided in KRS 117.995(4) shall be printed on the application.

(2) Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may apply for an absentee ballot by means of the federal post card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. Special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots. Special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request. The clerk shall cause the special ballot to be printed thirty (30) days prior to each primary or general election. The outer envelope shall bear the words "Absent Voter's Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and precinct number in the upper left hand corner of the absent voter's outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application *for twenty-two (22) months* [~~until thirty (30) days~~] after the election.

(4) A list of persons to whom absentee ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.

(5) Any person who has been mailed an absent voter's ballot but who shall be in his voting precinct on election day may cancel his absent ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his absent ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 9. KRS 117.087 is amended to read as follows:

(1) The challenge of an absent voter's ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of absent voters' ballots. The board shall open the boxes containing absent voters' ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the absent voter. All unsigned absentee ballots shall be rejected automatically. The *chairman of the county board of elections* [~~clerk~~] shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order the *chairman* [~~clerk~~] shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the *chairman* [~~clerk~~] shall then remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of an absent voter is read aloud by the *chairman* [~~clerk~~], the vote of such voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the

challenge thereto may be determined and the absentee vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the *chairman* [~~clerk~~] shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the absentee ballots from the inner envelopes, count and record the absentee ballot votes on a form provided by the state board.

(6) *Except as otherwise required by this chapter that certain records and papers relative to specified elections be retained for twenty-two (22) months,* the county clerk shall retain the ballots, detachable flaps and the outer envelopes for thirty (30) days, at which time they shall be *destroyed in such a manner as to render them unreadable* [~~burned~~] by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be *destroyed* [~~burned~~] but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

Section 10. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election, and at least thirty (30) days before any primary *or regular* election, [~~and at least fifteen (15) days before any regular election,~~] the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the finance and administration cabinet.

Section 11. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place *or within a fifty (50) foot perimeter of the voting machine* on election day unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis *a greater distance from the polling place within which* electioneering [~~and establishes the distance from the polling place where such electioneering~~] may be permitted, but in no case shall electioneering be allowed within a fifty (50) foot perimeter of the voting machine. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall maintain law and order within a fifty (50) foot perimeter of the voting machine. Assistance may be requested of any law enforcement officer.

Section 12. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, *except that the voter's employer, an agent of that employer, an officer or agent of the voter's union, or a candidate shall not assist the voter.* The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. Voting booth shall mean an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

Section 13. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the

operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total votes cast for each candidate, and for and against each question, and the votes written in, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The

county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The sheriff and the judge from the opposite political party from the sheriff shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. *Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months,* the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be *destroyed in such a manner as to render them unreadable* [~~burned~~] by the county board of elections if no contest or recount action has been filed.

Section 14. KRS 117.305 is amended to read as follows:

The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless within ninety-six (96) hours after the close of the polls, the county clerk or county board of elections takes notice of a discrepancy in the talley of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the election *board* [~~commission~~] shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county clerk, in which event the canvass and return shall become the official returns for the election. In making the recanvass the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for this discrepancy shall be noted. The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified. *The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass.* At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.

Section 15. KRS 117.315 is amended to read as follows:

(1) [~~The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.~~

~~(2) Any school board candidate, independent candidate, candidate for an office of the court of justice, or independent ticket at the regular election may designate not more than one (1) challenger to be present at and witness the holding of the elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.~~

~~(3) Not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested to each committee not less than twenty (20) days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.~~

~~(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.~~

~~(5) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.~~

~~(6)~~] Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven (7) days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four (4) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the court of appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the court of justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(4) Except as provided in Chapter 242, not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with

the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested to each committee not less than twenty (20) days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

Section 16. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify [~~the amount of such expenses, indicating each item of expense separately, together with~~] a statement of the number of precincts in the county, the date and kind of election to the state board of elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the state board of elections shall issue its warrant upon the state treasurer in favor of the county treasurer for the amount of eighty-five dollars ($85.00) for each precinct in the county. All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the state property and buildings commission executed in connection with the acquisition of voting machines by the commission for the use of such county; and payments to any county shall be terminated whenever such county fails to pay any part of the rentals required for any effective period of the lease.

Section 17. KRS 117.383 is amended to read as follows:

The state board of elections shall prescribe rules and regulations which shall include but not be limited to the following:

(1) Achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting;

(2) Count, tabulate, and record votes;

(3) Establish a method for placing items on the electronic voting device, which shall, as closely as possible, follow the requirements pertaining to ballot labels;

(4) Design the ballot cards, including a numerical system to insure an accurate record of all voting activities;

(5) Instruct voters in the use of the voting device;

(6) Provide for checking the accuracy of the equipment;

(7) Provide necessary supplies, including those necessary for a write-in vote and secrecy envelopes for punch cards or data processing cards to insure voter privacy;

(8) As part of the official canvass, provide for a manual recount of randomly selected precincts representing 3%-5% of the total ballots cast in each election;

(9) Provide a method for maintaining sufficient documents and records so that votes can be recounted. Such documents and records shall include any material other than a ballot card which is imprinted with the names of candidates and issues voted upon. Records shall be maintained in such a manner that a specific piece of printed material listing issues and candidates can be matched with the specific ballot cards which were marked in reliance upon such printed material. *Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months,* such documents and records shall be maintained for thirty (30) days following an election.

Section 18. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the following form:

Notification and Declaration

Of ______________ for nomination to the office of ____________.

To ______________ (county clerk or secretary of state, as case may be).

Commonwealth of Kentucky.

____________ County.

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ____________ Party, I, ______________ (name in full as desired on the ballot), do solemnly swear that I reside at No. __________ street in the City of ____________, State of Kentucky, and that I am a registered __________ (party) voter in __________ precinct, City of __________; that I believe in the principles of the __________ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of __________ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

I further solemnly swear that I am a bona fide candidate for nomination and am honestly seeking the office for which this notification and declaration is filed; that I expect to make a campaign for the nomination and am not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public; that I am in no sense a pretended, fictitious or "dummy" candidate and am not filing as candidate for the purpose of influencing or controlling or attempting to influence or control a selection of challengers or inspectors or officers of election; that it is my honest purpose and intention to be and remain a candidate through the primary election; that I have not been persuaded, urged, solicited, influenced or induced to file this notification and declaration by any person in furtherance of the interests of any other candidate.

____
(Signature of candidate)

Subscribed and sworn to before me by ____________, this _____ day of _________, 19____.

____
(Signature of officer)

____

(Title of officer)

My commission expires ________

The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the following form:

Commonwealth of Kentucky.

__________ County.

We, __________ and __________, do solemnly swear that we are qualified electors and members of the ________ Party, and were affiliated with that party and supported its nominees at the last regular election; that we are residents and legal voters of the City of ________, County of ________, State of Kentucky; that we are personally acquainted with __________, who files the hereto attached notification and declaration, and we know him to be a discreet citizen and a member of the ________ Party, and that to the best of our knowledge and belief he has affiliated with and supported that party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration; that we believe him to be qualified to fill the office of ________; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public.

We do further solemnly swear that to the best of our knowledge and belief the said __________ is in good faith a candidate for nomination for said office, and that he is not merely becoming a pretended, fictitious or "dummy" candidate for the purpose of influencing or controlling the selection of challengers, inspectors or officers of election for the benefit or in the interest of any other candidate or group of candidates.

____

(Signature of affiants)

Subscribed and sworn to before me by __________, this _____ day of ________, 19____.

____

(Signature of officer)

____

(Title of officer)

My commission expires ________

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter, *except as provided in KRS 118.185.*

(5) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

Section 19. KRS 118.212 is amended to read as follows:

(1) If before the time of certification provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the secretary of state dies or notifies the secretary of state in writing, signed and properly notarized that he will not accept the nomination or election, the secretary of state shall not certify his name.

(2) If before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall not cause his name to be printed on the ballot.

(3) *If before the ballots are printed, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the secretary of state dies or notifies the secretary of state in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the secretary of state shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.*

(4) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

Section 20. KRS 118.215 is amended to read as follows:

(1) Not less than eighty (80) days before a primary or sixty (60) days before a regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) *Except as otherwise provided in subsection (3) of this section,* all independent candidates whose nominating petitions are filed with the county clerk shall be *listed under the title and device* designated by *them as provided in KRS 118.315, or if none is designated, under* the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged with and designated by the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be clearly separated from other groups on the ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than sixty (60) days before the primary or forty (40) days before the general election. The state board of elections shall meet within five (5) days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 21. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, [~~or~~] member of the general assembly *or commonwealth's attorney*, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for an officer of a [~~precinct or ward, or other~~] division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. *Each* [~~No~~] petitioner shall *include* [~~be counted unless~~] his residence, social security number and post-office address [~~are designated~~]. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers [~~desire, and~~] are legally qualified, to vote for the candidate. *Except for municipal, school board and supervisor of soil and water conservation district races,* [~~The~~] petition *may* [~~shall~~] designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines. [~~This does not apply to municipal and school board races.~~]

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) The secretary of state and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the secretary of state or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) The state board of elections shall prescribe the forms for the petition.

Section 22. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates *for city* [~~to~~] offices, *for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts* [~~which are prohibited from utilizing a primary~~] shall be filed with the county clerk not less than seventy (70) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice-president of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and KRS 118.325, shall be filed as required with the secretary of state or county clerk not less than seventy (70) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to *three (3) months* [~~seventy (70) days~~] before the general election, shall be filed by such petitions not later than seventy (70) days prior to the general election.

(6) *Except as otherwise provided in this section,* petitions of nomination shall be filed as required with the secretary of state or county clerk not less than ninety (90) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than seventy (70) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than seventy (70) days prior to the date fixed by law for the election of such electors.

Section 23. KRS 118.385 is amended to read as follows:

(1) The secretary of state and county clerks shall preserve in their respective offices all certificates and petitions of nomination filed therein, for six (6) months after the election for which the nominations were made.

(2) Each county clerk and the secretary of state shall retain and preserve, for a period of twenty-two (22) months from the date of any primary or general or special election at which candidates for the office of presidential elector ~~or~~ *member of the United States Senate or House of Representatives are voted for, and only for the precincts in which any such office appears on the ballot all records and papers relative to the voter returns for all the offices voted for in those precincts.*

Section 24. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or special ballot more than once, *except that a candidate's name may appear twice if he is a candidate for a primary or a regular election and also a candidate to fill a vacancy in the same office required to be filled at a special election, when the special election to fill a vacancy is scheduled for the regular election day.*

Section 25. KRS 118.425 is amended to read as follows:

(1) The state board of elections shall issue certificates of election where the successful candidate was voted for by the state at large or by a district greater than one (1) county, or was a candidate for member of congress or the general assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of congress, members of the general assembly and designated officers filing with the state board of elections. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for such office and the total number of votes for and against each of such questions. The clerk shall keep one (1) of the certificates in his office. He shall not later than three (3) days after receiving such certificate from the board, forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(4) The state board of elections shall meet, to count and tabulate the votes received by the different candidates as certified to the secretary of state, when the returns are all in, or on the *third* [~~second~~] Monday after the election whether they are in or not, but if all the returns are not made, the right to contest an election shall not be impaired. *A majority* [~~Any two (2)~~] of the members of the board *shall constitute a quorum and* may act [~~in the absence of the third~~]. The board shall make out the certificates of election in the office of the board, from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in congress, an additional certificate shall be made and sent, by mail, to the clerk of the house of representatives.

(5) The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of president and vice president of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for president and vice president received the highest number of votes and the determination by the board that the candidates of any political party or organization for president and vice president have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

Section 26. KRS 118.445 is amended to read as follows:

The electors of president and vice president of the United States shall convene at the state capitol, at *11:45* [~~10:00~~] a.m. on the first Monday after the second Wednesday in December next after their election, give their votes at or after 12:00 noon, and make return thereof according to law. If any elector fails to attend by 12:00 noon, on the day of the meeting, those in attendance shall fill his place by the election of another person, who shall have the same powers as if originally elected by the people.

Section 27. KRS 118.710 is amended to read as follows:

Except as provided in KRS 120.205, when a vacancy happens in the office of governor, requiring an election, a proclamation therefor shall be issued by the chief justice of the Supreme Court, or if he is absent from the state or unable to act, by one (1) of the associate justices, *and shall be directed to the sheriffs*. The proclamation shall be published *by the sheriffs as required by KRS 118.750* [~~pursuant to KRS chapter 424~~].

Section 28. KRS 118.720 is amended to read as follows:

When an election is to be held to fill a vacancy in the office of representative in congress, a proclamation therefor, in lieu of a writ of election, shall be issued and signed by the governor *and shall be directed to the proper sheriffs*. The proclamation shall be published *by the sheriffs as required by KRS 118.750* [~~pursuant to KRS chapter 424~~].

Section 29. KRS 118.760 is amended to read as follows:

Nominations by political parties, as defined in KRS 118.015, to fill vacancies at special elections [~~to be held on days other than the regular election,~~] shall be made in such manner as may be determined by the governing authority of the party in the territory in which the election is to be held.

Section 30. KRS 118.770 is amended to read as follows:

When a writ of election is issued to fill a vacancy in the office of member of the general assembly or the office of member of congress, *independent* petitions and certificates of nomination may be filed ten (10) days before the day of election, and if filed with the secretary of state shall be immediately certified by him to the proper county clerks.

Section 31. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, eighty-eight (88) days before the primary election.

(5) [~~If before the time of certification provided in subsection (6) of this section, any candidate whose petition of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the nomination, the secretary of state shall not certify his name.~~

~~(6)~~] Not less than eighty (80) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6)[~~(7)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7)[~~(8)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8)[~~(9) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the nomination, the county clerk shall not cause his name to be printed on the ballot.~~

~~(10) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(11)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9)[~~(12)~~] The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10)[~~(13)~~] If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 32. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, sixty-eight (68) days before the regular election.

(2) [~~If before the time of certification provided in subsection (3) of this section, any candidate whose certificate of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.~~

~~(3)~~] Not less than sixty (60) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3)[~~(4)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4)[~~(5) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.~~

~~(6) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5)[~~(8)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 33. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and such candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (14) of this section.

(3) Each candidate shall file a petition for candidacy with the secretary of state at least seventy (70) days before the day fixed by law for holding the regular election.

(4) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, sixty-eight (68) days before the regular election.

(7) [~~If before the time of certification provided in subsection (8) of this section, any candidate whose petition for candidacy has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.~~

~~(8)~~] Not less than sixty (60) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8)[~~(9)~~] The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9)[~~(10)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10)[~~(11) If before the ballots are printed, any candidate whose petition for candidacy has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.~~

~~(12) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.~~

~~(13)~~] The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11)[~~(14)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 34. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) *No county clerk shall knowingly cause to be printed on the ballot labels or special ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.*

(4) If *before the time of certification provided for in this chapter,* any candidate *whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the nomination or election* [~~withdraws before certification~~], the secretary of state shall not certify his name.

(5) If before the ballots are printed, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the secretary of state in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the secretary of state shall immediately notify the appropriate county clerk, and the clerk shall not cause his name to be printed on the ballot.

(6) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

Section 35. KRS 118A.190 is amended to read as follows:

(1) The state board of elections shall issue certificates of nomination or election for all primary and regular elections as provided in this section.

(2) Following a primary or regular election, the board of elections of each county shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and numbered division thereof if divisions exist. The board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the board, shall forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(3) When all the returns are received by the state board of elections, the board shall meet to count and tabulate the votes received by the different candidates as certified to the secretary of state. If all returns have not been received by the *third* [~~second~~] Monday after the primary or regular election, the board shall, nevertheless, proceed with its duties at that time. When the board certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. *A majority* [~~Any two (2)~~] of the members of the board *shall constitute a quorum and* may act [~~in the absence of the third~~]. The board shall prepare the certificates of nomination or election in the office of the board, from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the board members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board.

(4) Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

(5) The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

Section 36. The following KRS section is repealed:

118A.170 Ballot labels.

HB 176, AN ACT relating to retirement credit for military service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) Any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed within two

(2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employe eligible for retirement as prescribed in KRS 61.559 or any employe upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time as funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(6) Upon retirement, a member (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is *a disability pension or is* for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. *Any veteran receiving a military disability pension who retired prior to the effective date of the amendment to this section, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.*

HB 317, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.110 is amended to read as follows:

(1) In the cabinet for human resources there shall be an unemployment insurance commission composed of the secretary or his duly authorized representative, as ex officio chairman and two (2) members appointed by the governor.

(2) The secretary shall represent the state and the public. One member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.

(3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.

(4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the members representing labor and employers shall be *$24,000* [~~$4,800~~] each per annum.

The Committee Amendment No. 1 to HB 317 is as follows:

Amend printed copy of HB 317:

On page 2, line 2, by deleting “*$24,000*” and inserting in lieu thereof the word “*$12,000*”

HB 423, AN ACT relating to liability insurance for criminal justice personnel, the attorney general and employes of the department of law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The attorney general may secure such liability insurance as will reasonably protect the interests of the attorney general and the employes of the attorney general's office, each commonwealth attorney and the employes of each commonwealth attorney's office and each county attorney and the employes of each county attorney's office when in the conduct of official business.

HB 481, AN ACT relating to public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) “Employe” means a person in the service of the Commonwealth of Kentucky, or any of its political subdivisions, who is under contract of hire, express or implied, oral or written, where the Commonwealth, or any of its political subdivisions, has the power or right to control and direct the material details of work performance;

(2) “Employer” means the Commonwealth of Kentucky or any of its political subdivisions. Employer also includes any person authorized to act on behalf of the Commonwealth, or any of its political subdivisions, with respect to formulation of policy or the supervision, in a managerial capacity, of subordinate employes; and

(3) “Official request” means a request from members of the Kentucky general assembly and its employes; members of the legislative research commission and its committees and employes; the auditor of public accounts and his employes; the attorney general and his employes; the governor and employes of the governor's office; and members of the press.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence, in any manner whatsoever, which tends to discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any employe who in good faith reports, discloses, divulges, or otherwise brings to the attention of the attorney general, the auditor of public accounts, the general assembly of the Commonwealth of Kentucky or any of its members or employes, the legislative research commission or any of its committees, members or employes, the judiciary or any member or employe of the judiciary, any law enforcement agency or its employes, or any other appropriate body or authority, any facts or information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky,

or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, or endangerment of public health or safety. No employer shall require any employe to give notice prior to making such a report, disclosure, or divulgence.

(2) This section shall not be construed as:

(a) Prohibiting an employer from requiring that an employe inform him of an official request made to an agency for information, or the substance of testimony made, or to be made, by the employe to legislators on behalf of an agency;

(b) Permitting the employe to leave his assigned work area during normal work hours without following applicable law, administrative regulations, rules, or policies pertaining to leave, unless the employe is requested by a legislator or a legislative committee to appear before a legislative committee;

(c) Authorizing an employe to represent his personal opinions as the opinions of his employer; or

(d) Prohibiting disciplinary or punitive action if an employe discloses information which he knows:

1. To be false or which he discloses with reckless disregard for its truth or falsity;

2. To be exempt from required disclosure under the provisions of KRS 61.870 to 61.884; or

3. Is confidential under any other provision of law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the administrative remedies granted by KRS Chapters 16, 18A, 78, 90, 95, 156, and other chapters of the Kentucky Revised Statutes employes alleging a violation of subsection (1) of Section 2 of this Act may bring a civil action for appropriate injunctive relief or punitive damages, or both, within ninety (90) days after the occurrence of the alleged violation. Such action may be filed in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(2) Employes filing court actions under the provisions of subsection (1) of this section shall show by clear and convincing evidence that they, or a person acting on their behalf, were about to report or have already reported, either verbally or in writing, a violation, or a suspected violation, of a law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any person who willfully violates the provisions of subsection (1) of Section 2 of this Act shall be guilty of a Class A misdemeanor.

(2) A court, in rendering a judgment in an action filed under this Act, shall order, as it considers appropriate, reinstatement of the employe, the payment of back wages, full reinstatement of fringe benefits and seniority rights, exemplary or punitive damages, or any combination thereof. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

HB 497, AN ACT relating to attorney fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

(1) In the appeal of a final order of the personnel board to Franklin circuit court as provided in KRS 18A.100, attorney fees shall be awarded to a successful employe in addition to any damages which the court, in its discretion, may award. Such attorney fees shall not exceed five thousand dollars ($5,000).

(2) The provisions of this section shall apply only to appeals initiated after the effective date of this Act.

Section 2. KRS 18A.100 is amended to read as follows:

(1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a classified or an unclassified employe may be appealed either by the employe or by the appointing authority.

(2) The party aggrieved may, within thirty (30) days after the entry of the final order with which he is dissatisfied, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Summons shall be issued by the circuit court clerk upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. Service on the board shall be had by serving the attorney general or any assistant attorney general. The executive director of the board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit court clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.

(3) The board, the employe, and the appointing authority shall be necessary parties to such appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employe.

(4) The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects be expedited.

(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive director of the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law.

(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.

(7) *The award of attorney fees shall not exceed five thousand dollars ($5,000) as provided in Section 1 of this Act.*

(8) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure.

HB 515, AN ACT relating to candidate filing deadlines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly, shall file their nomination papers with the secretary of state not

less than ninety (90) days before the day fixed by law for holding the primary election. *All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.*

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 2. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates to offices which are prohibited from utilizing a primary shall be filed with the county clerk not less than seventy (70) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice-president of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and KRS 118.325, shall be filed as required with the secretary of state or county clerk not less than seventy (70) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to seventy (70) days before the general election, shall be filed by such petitions not later than seventy (70) days prior to the general election.

(6) Petitions of nomination shall be filed as required with the secretary of state or county clerk not less than ninety (90) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than seventy (70) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than seventy (70) days prior to the date fixed by law for the election of such electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 3. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election. *The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.*

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, eighty-eight (88) days before the primary election.

(5) If before the time of certification provided in subsection (6) of this section, any candidate whose petition of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the nomination, the secretary of state shall not certify his name.

(6) Not less than eighty (80) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(9) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the nomination, the county clerk shall not cause his name to be printed on the ballot.

(10) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(11) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(12) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(13) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 4. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred five (105) days before the primary. If the vacancy occurs on or after the one hundred fifth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and such candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (14) of this section.

(3) Each candidate shall file a petition for candidacy with the secretary of state at least seventy (70) days before the day fixed by law for holding the regular election. *Such petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.*

(4) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, sixty-eight (68) days before the regular election.

(7) If before the time of certification provided in subsection (8) of this section, any candidate whose petition for candidacy has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.

(8) Not less than sixty (60) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(9) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(10) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(11) If before the ballots are printed, any candidate whose petition for candidacy has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.

(12) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(13) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(14) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 5. KRS 262.210 is amended to read as follows:

No less than seventy (70) days before the day fixed by law for holding of regular elections, nominating petitions shall be filed with the clerk of the county in which the district lies to nominate candidates for supervisors of the district. *Such petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.* Each nominating petition shall be subscribed by twenty-five (25) or more qualified voters who are residents of the territory to be encompassed by the district. Resident qualified voters may join in nominating by petition more than one candidate for supervisor. The nominating petition shall state the residence and post-office address of each candidate, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The county clerk shall certify the nomination and election of supervisors to the commission.

Section 6. The provisions of this Act shall be effective on January 1, 1987.

HB 586, AN ACT relating to the department for libraries and archives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.200 is amended to read as follows:

The department *for* [~~of~~] library and archives shall make and administer plans to lessen inequalities of opportunity for library service, for the maintenance of an improved cooperative and integrated system of library service throughout the state and for suitable cooperative arrangements between public library systems, school library systems, college and university libraries, special libraries, and other appropriate state agencies. *The department may contract with other public or private institutions or corporations for the purpose of fulfilling the intent of this statute subject to the provisions of KRS Chapters 45 and 45A.*

HCR 51, A CONCURRENT RESOLUTION honoring the Lexington Children's Theatre and designating it the official state children's theatre.

WHEREAS, the Lexington Children's Theatre has been widely acclaimed for its commitment to quality educational theatre, as well as for the excellence of its productions; and

WHEREAS, the Lexington Children's Theatre, currently in its 49th season, is the oldest children's theatre in Kentucky; and

WHEREAS, its professional staff regularly conducts both performance and teaching workshops, not merely in the Lexington area, but throughout eastern and central Kentucky; and

WHEREAS, its workshops, tours and in-school residencies have inspired, stimulated and entertained thousands of Kentucky school children over the years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Lexington Children's Theatre be designated the official children's theatre of the Commonwealth.

Section 2. That a copy of this resolution be sent to Mr. Larry Snipes, the managing director of the Lexington Children's Theatre.

Calendar

HB 325, HB 471, HB 579, SB 43, HB 424, HCR 46, HB 202, HB 286, HB 516, HB 524, HB 526, HB 544, HB 564, HB 209, HB 483, SB 69, SB 92, HB 126, HB 32 and HB 420 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 21 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that they be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that SB 21 be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See February 13, 1986, roll call on SB 21, Appendix A.)

SB 21 was passed and the title agreed to.

Representative Deskins moved that the vote by which SB 21 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 24 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that SB 24 be passed.

On the roll call the vote was: Yeas 84, Nays 9. (See February 13, 1986, roll call on SB 24—Appendix A.)

SB 24 was passed and the title agreed to.

Representative Deskins moved that the vote by which SB 24 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 12, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Amendment No. 1 to HB 12. Agreed.

Representative Handy moved that HB 12, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 13, 1986, roll call on HB 12—Appendix A.)

HB 12, as amended, was passed and the title agreed to.

Representative Handy moved that the vote by which HB 12, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that HB 372 be passed.

On the roll call the vote was: Yeas 78, Nays 8. (See February 13, 1986, roll call on HB 372—Appendix A.)

HB 372 was passed and the title agreed to.

Representative O'Brien moved that the vote by which HB 372 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 376, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to HB 376. Agreed.

Representative Blevins moved that HB 376, as amended, be passed.

On the roll call the vote was: Yeas 49, Nays 42. (See February 13, 1986, roll call on HB 376—Appendix A.)

HB 376, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 376, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 381 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that HB 381 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 13, 1986, roll call on HB 381—Appendix A.)

HB 381 was passed and the title agreed to.

Representative O'Brien moved that the vote by which HB 381 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 382, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of Committee Amendment No. 1 to HB 382. Agreed.

Representative Priddy moved that HB 382, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 13, 1986, roll call on HB 382—Appendix A.)

HB 382, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which HB 382, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 29 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 29 be passed.

On the roll call the vote was: Yeas 74, Nays 25. (See February 13, 1986, roll call on SB 29—Appendix A.)

SB 29 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 29 was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

HB 651, by Representative Barrows: AN ACT relating to the cable television services gross receipts licenses tax.

HB 652, by Representative L. Clark: AN ACT relating to job training.

HB 653, by Representatives Long and Hancock: AN ACT relating to workers' compensation insurance.

HB 654, by Representative Long: AN ACT relating to activities in competition with private enterprise.

HB 655, by Representative Clarke: AN ACT relating to taxpayer appeals.

HB 656, by Representative Burch: AN ACT relating to children and programs relating thereto.

HB 657, by Representatives Rattliff and B. Richardson: AN ACT relating to coroners.

HB 658, by Representative Noe: AN ACT relating to constables.

HB 659, by Representative Cline: AN ACT relating to credit unions.

HB 660, by Representatives Smith, Moberly and Mack: AN ACT relating to insurance agents.

HB 661, by Representatives Cowan and R. Jones: AN ACT relating to juvenile sexual offenders and making an appropriation therefor.

HB 662, by Representatives Noe and Mack: AN ACT relating to parent and child education and making an appropriation therefor.

HB 663, by Representatives J. Harper, Bruce, Lefevers and Noland: AN ACT relating to hazardous materials.

HB 664, by Representatives Mann and Donnermeyer: AN ACT relating to abused, missing, and exploited children.

HB 665, by Representatives Burnette, Crupper, Gedling and Worthington: AN ACT relating to revenue and taxation and related activities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Education: HB 593, HB 609, HB 614, SB 8, SB 67, SB 152, HCR 74.

Business Organizations and Professions: HB 551, HB 553, HB 606.

Transportation: HB 153, HB 208, HB 425, HB 600, HB 412.

Labor and Industry: HB 628, HB 340.

Judiciary-Criminal: HB 51, HB 588, HB 534.

Cities: HB 529, HB 557, HB 618, HB 625.

Counties and Special Districts: HB 617, HB 627, HB 571.

Judiciary-Civil: HB 540, HB 582, HB 596, HB 543, HB 532, SB 28, HB 501.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Judiciary-Civil: HB 138.

Report of Committees

The Committee on Natural Resources and Environment reported HB 504 with Committee Amendment attached thereto, HB 509 with Committee Substitute and Title Amendment No. 1 to the Committee Substitute attached thereto, HB 528 with Committee Amendment attached thereto, and HB 565 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 504, AN ACT relating to gas service from producing wells or gas gathering pipelines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.485 is amended to read as follows:

Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (1/2) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the public service commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the public service commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines that have been held to be subject to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) *No company shall abandon any gathering pipeline or line which serves residential customers under this section. If the producing well or wells which serve the line become depleted, then the company shall plug or shut in the well or wells, and shall supply gas to the line from elsewhere in the system* [~~Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines. If service to any customer is terminated because of lack of gas for a period of six (6) months in a pipeline or line which served him, the company shall remove a portion of the main line so as to render it inoperable~~].

(7) Subject to the rules and regulations of the public service commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

The Committee Amendment No. 1 to HB 504 is as follows:

Amend printed copy of HB 504:

On page 3, line 1, by deleting everything after "(6)";

and on line 2, by deleting line 2

and on line 3, by deleting "*section.*"

and on line 1, after "(6)" by adding:

"*No customer who received natural gas from any gathering pipeline or line under this section on or after July 1, 1985 shall be disconnected or have his service discontinued due to abandonment of the pipeline or line which served him.*"

and on line 4, after "*company shall*" by adding "*not abandon the line, but shall instead*"

HB 509, AN ACT relating to setting fire on own land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.375 is amended to read as follows:

(1) It shall be unlawful, within or adjacent to timberland, for any person to set fire to, or to procure another to set fire to, any flammable material upon land owned or leased by him unless he previously shall have taken all reasonable care and precaution, by having the flammable material cut and piled or carefully cleared around the same, to prevent the spread of such fires to lands other than those owned or leased by him. It shall also be unlawful for any employe of any such owner or lessee of land to set fire to any flammable material, upon such land unless he shall have taken similar precautions to prevent the spread of such fire to any other land. All fires shall be attended until extinguished.

(2) A first-time violator of the provisions of subsection (1) of this section shall not be subject to the penalty provisions of KRS 149.991(1). A warning shall be given to such first-time violator of subsection (1) of this section. This warning shall in no way affect the first-time violator's liability under KRS 149.430. The penalty provision of KRS 149.991(1) shall apply for a subsequent violation of subsection (1) of this section by the same person.

The Committee Substitute to HB 509 is as follows:

HB 509, AN ACT relating to setting fire on own land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.400 is amended to read as follows:

(1) The periods commencing on March 1 and ending on May 15 and commencing on October 1 and ending on December 15 of each year are hereby declared to be and established as the fire hazard seasons. During the fire hazard seasons, even though the precautions required by KRS 149.375 shall have been taken, it shall be unlawful for any person to set fire to, or to procure another to set fire to, any flammable material capable of spreading fire, located in or within one hundred fifty feet (150') of any woodland or brushland, except between the hours of 4:30 p.m. and twelve (12) o'clock midnight, prevailing local time, or when the ground is covered with snow.

(2) This section shall not apply to fires which may be set for the purpose of burning plant beds.

(3) This section shall not apply to fires which may be set by competent and qualified employes of railroad, utility or pipeline companies in connection with the construction, operation or maintenance of railroads, pipelines, powerlines or other projects in the public interest on rights of way used for such railroads, pipelines, powerlines or other projects, and such fires shall be attended at all times and be extinguished before the employes of such railroad, utility or pipeline companies leave the vicinity of the fire.

(4) A first-time violator of the provisions of this section shall not be subject to the penalty provisions of KRS 149.991(1). A warning shall be given to such first-time violator of this section. This warning shall in no way affect the first-time violator's liability under KRS 149.430. The penalty provision of KRS 149.991(1) shall apply for a subsequent violation of this section by the same person.

The Title Amendment No. 1 to the Committee Substitute to HB 509 is as follows:

Amend printed copy of Committee Substitute for HB 509:

Title: AN ACT relating to setting fires.

HB 528, AN ACT relating to underground coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with such training provided for by the commissioner shall be employed at every underground coal mine with *two (2) to* twenty-five (25) or more employes engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal. Any such mine without a certified emergency medical technician trained as defined by the commissioner shall be allowed ninety (90) days to employ a certified emergency medical technician and may continue to operate during this ninety (90) day period. If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

(3) Certified emergency medical technicians shall receive eight (8) hours of annual retraining during which they shall receive their regular wages.

The Committee Amendment No. 1 to HB 528 is as follows:

Amend printed copy of HB 528:

on page 1, line 5, after (2), delete the words "*to* twenty-five (25)".

HB 565, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 351.193 TO 351.241 IS CREATED TO READ AS FOLLOWS:

(1) A certified emergency medical technician trained as defined by the commissioner with such training provided for by the commissioner shall be employed at every surface coal mine with two (2) to twenty-five (25) or more employes engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal. Any such mine without a certified emergency medical technician trained as defined by the commissioner shall be allowed ninety (90) days to employ a certified emergency medical technician and may continue to operate during this ninety (90) day period. If these emergency medical technicians are also employed in other capacities at the surface coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.,

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

(3) Certified emergency medical technicians shall receive eight (8) hours of annual retraining during which they shall receive their regular wages.

The Committee Amendment No. 1 to HB 565 is as follows:

Amend printed copy of HB 565:

on page 1, line 6, after (2), delete the words "*to twenty-five (25)*"

The Committee on Health and Welfare reported HB 323 with Committee Amendment attached thereto, HB 404, HB 448 with Committee Amendment attached thereto, HB 472 and HB 548 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 323, AN Act relating to child support recovery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.710 is amended to read as follows:

As used in KRS 205.710 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the cabinet for human resources;

(2) "Secretary" shall mean the secretary of the cabinet for human resources;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States and is a recipient of or applicant for public assistance;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree or judgment, whether interlocutory or final, and includes the duty to pay arrearages of support past due and unpaid *in addition to medical support whenever health care coverage is available at a reasonable cost*;

(6) "Parent" shall mean the natural or adoptive parents and includes the father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state;

(7) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child.

(8) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Section 2. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving aid to families with dependent children (AFDC) benefits shall also be available to individuals not receiving AFDC benefits, upon application by such individual with the cabinet.

(2) *The cabinet shall continue to provide IV-D services whenever a family ceases to receive public assistance. The cabinet shall continue to provide services for a period not to exceed three (3) months from the month following the month in which the family ceased to receive public assistance. If authorized by the recipient, the cabinet shall continue to provide services beyond this period without requiring a formal application and without payment of the application fee specified in subsection (3) of this section.*

(3) Except as provided in subsection (2) of this section, the cabinet is authorized to charge an application fee for such services based on a fee schedule, which shall take into account *the applicant's net income. No*

application fee shall be required from individuals receiving public assistance. [~~at least the following factors about the individual:~~

~~(a) Locality of residence;~~

~~(b) Family size;~~

~~(c) Gross income; and~~

~~(d) Liquid assets. The cabinet shall endeavor to recover these fees from the non-supporting parent and shall, if recovery is successful, reimburse these fees to the applicant.~~]

Section 3. KRS 205.725 is amended to read as follows:

(1) Whenever the cabinet receives an application for public assistance on behalf of a needy dependent child or reviews the records of those currently receiving public assistance on behalf of a needy dependent child and it appears to the satisfaction of the cabinet that either or both parents have failed to provide support to the child, the cabinet may take appropriate action under this chapter, or any other appropriate state and federal *laws and regulations* [~~statutes~~], to assure that the responsible parent or parents provide support to the child.

(2) As used in KRS 205.730, 205.735, 205.765 and 205.785, the term "child" includes a child of an individual who is not receiving public assistance and who *is eligible to receive* [~~has applied for~~] child support services in accordance with title IV-D of the Social Security Act.

Section 4. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the responsible parent if he has failed to make [~~full~~] child support payment *in an amount equal to support payable for one (1) month* [~~within thirty-two (32) days after it is due~~].

(2) The cabinet shall file its claim of lien within one (1) year from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the cabinet for human resources, claims a lien in the amount of . . . . on the (describe property) of (name of parent) for child support owed to his dependent children *or for such* [~~and~~] public assistance monies *as may have been* paid to his children by the cabinet for human resources."

(3) The cabinet shall notify the responsible parent of the filing of its claim of lien.

Section 5. KRS 205.750 is amended to read as follows:

(1) Child support payments made pursuant to a court order shall be paid to the cabinet upon notice by the cabinet to the court and the parent that the child is a recipient of public assistance *or services pursuant to Title IV-D of the Social Security Act.*

(2) [~~The cabinet may also collect child support payments on behalf of a child not receiving public assistance when an application for such service is made to the cabinet on behalf of the child and an assignment of support payments is executed.~~

~~(3)~~] Payment of support payments by the obligor directly to a child who is receiving public assistance after the obligor has been notified pursuant to subsection (1) of this section does not abate the obligor's support obligation to the cabinet.

Section 6. KRS 205.775 is amended to read as follows:

When the cabinet is receiving support payments from a responsible parent on behalf of a dependent child and the child's public assistance is discontinued, the cabinet *shall* [~~may~~] continue to receive the support payments *in compliance with KRS 205.721* [~~for up to three (3) months after discontinuance of public assistance to the child~~]. The support payments so received [~~in this three (3) month period~~] shall be forwarded for the benefit of the child. The cabinet shall notify the parent and the court, if support is being paid pursuant to a court order, to change the payment of support money to be paid directly to the relative or other person who has custody of the child for the benefit of the child *when Title IV-D services are discontinued*. When the responsible parent is paying the cabinet reimbursement for child support previously made by the cabinet, the parent shall continue to pay the reimbursement amount directly to the cabinet until the amount owing is paid in total.

SECTION 7. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require a parent in appropriate cases to give security, post bond, or give some other guarantee to secure payment of over due support.

(2) The cabinet shall provide advance notice to the parent regarding the delinquency of the support payment and the requirement of posting security, bond or guarantee. The parent shall be notified of his rights and methods available to contest the impending action in compliance with due process of law and administrative regulations.

SECTION 8. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall make information available on consumer reporting agencies upon their request regarding the amount of overdue support owed by a parent in cases where the overdue support exceeds one thousand dollars ($1000). Amounts less than one thousand dollars ($1000) may be reported by the cabinet upon request by the consumer reporting agency.

(2) The cabinet shall provide advance notice to the parent who owes the support concerning the proposed release of the information to the consumer reporting agency and inform the parent of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The cabinet may charge the consumer reporting agency a fee not to exceed the actual cost of providing the information.

SECTION 9. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) In cases deemed appropriate pursuant to established guidelines the cabinet shall refer for state income tax refund offset verified amounts which are owed for overdue child supports where services are being provided by the cabinet pursuant to Title IV-D of the social security act.

(2) In non-public assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the parent of the referral for state income tax refund offset together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The revenue cabinet shall notify the cabinet of the parent's home address and social security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

Section 10. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the revenue cabinet shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who *owes overdue child support or* is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the revenue cabinet from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim therefor. In the case of multiple state agency claims against the same tax refund, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the revenue cabinet.

SECTION 11. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In any new or modified order or decree which contains provisions for the support of a minor child, the order or decree shall include a provision that whenever an arrearage accrues that is equal to the amount of support payable for one (1) month a wage assignment pursuant to KRS 405.465, may issue.

Section 12. KRS 405.450 is amended to read as follows:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. *The dispute hearing proceedings shall be mechanically recorded.*

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the hearing officer's decision.

(3) The hearing officer's decision, reasons therefor and an explanation of the appeal process shall be served personally or sent by certified mail, return receipt requested, to the parent and the cabinet, no more than thirty (30) days after the hearing. The decision shall establish the parent's liability, if any, for support.

(4) Within twenty (20) days of the parent's receipt of the hearing officer's decision, which shall be personally served or mailed by certified mail, return receipt requested, the parent or the cabinet may file an appeal *in* [~~which shall be heard de novo by~~] the circuit court in the county of the parent's or the child's residence.

(5) The parent shall, during the pendency of his appeal from the hearing officer's decision, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

Section 13. KRS 405.460 is amended to read as follows:

(1) When a parent is *one (1) month delinquent on paying the full obligation on* [~~at least thirty-two (32) days delinquent in paying~~] court-ordered or administratively determined child support, the cabinet may use judicial or administrative remedies to enforce the support obligation without the necessity of any action by a hearing officer.

(2) In cases where the parent has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the debtor's receipt of the notice of support obligation or his refusal to accept the notice.

Section 14. KRS 405.465 is amended to read as follows:

(1) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child and the full obligation is *one (1) month* [~~thirty-two (32) days~~] delinquent, upon a finding by the court that the full obligation is *one (1) month* [~~thirty-two (32) days~~] delinquent, the court shall order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the court to receive such payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child.

(2) Such order shall be binding upon the employer upon the service by certified mail of a copy of such order upon such employer and until further order of the court. [~~The employer may deduct the sum of one dollar ($1) for each payment made pursuant to such order.~~]

(3) Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

(5) Nothing within this section shall preclude a court from ordering a wage assignment prior to any arrearages as the court deems proper.

Section 15. KRS 405.490 is amended to read as follows:

(1) Any person who has been served with an order to withhold and deliver property shall answer the order within twenty (20) days.

(2) The person in possession of any property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or *the parent* [~~he~~] may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of property shall have no liability or further responsibility after fulfilling his duties under this section.

(4) When property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending final determination of the parent's liability by a court *of competent jurisdiction* [~~or a hearing officer~~].

SECTION 16. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) In any case where a parent is required to pay court-ordered or administratively determined child support and an arrearage accrues that is equal to the amount of support payable for one (1) month, the secretary may issue an order for withholding of earnings of the parent as is necessary to comply with the order.

(2) Advance notice shall be sent to the parent prior to the issuance of the order to withhold earnings. The notice shall advise the parent of the proposed withholding and the procedures to follow to contest the withholding. The only basis for contesting the withholding is a mistake of fact, which means an error in the amount of current or past-due support or the identify of the parent.

(3) If the parent contests the withholding, the cabinet shall give the parent an opportunity to present his case and decide if the withholding will occur based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the parent of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the parent with the information contained in any order served on the employer with respect to the withholding.

(4) The cabinet shall serve the order to withhold earnings on the employer of a parent by certified mail, return receipt requested. The order shall state the amount to be withheld, including amounts to be applied to arrearages, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages, may not exceed the limit permitted under federal law.

(5) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an employer following receipt of an order to withhold earnings.

Section 17. KRS 406.031 is amended to read as follows:

The determination of paternity under the provisions of KRS 406.021 (1) shall be commenced within *eighteen (18)* [~~four (4)~~] years after the birth, miscarriage or stillbirth of a child [~~when there is no cohabitation after the birth, miscarriage or stillbirth; if there is cohabitation after the birth, miscarriage or stillbirth, the statute of limitations of four (4) years begins to run at the time at which the cohabitation ceases. The determination of paternity under the provisions of KRS 406.021 (2) may be made at any time prior to the child's eighteenth birthday~~].

The Committee Amendment No. 1 to HB 323 is as follows:

Amend printed copy of HB 323:

On page 7, line 4,

by deleting the word "*on*" and inserting in lieu thereof the word "*to*"

HB 404, AN ACT relating to hearing impaired children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.050 is amended to read as follows:

(1) The attending physician or midwife shall sign and file a certificate of birth with the local registrar of the district in which the birth occurred within ten (10) days after the date of birth. The certificate shall be properly and completely filled out, and shall contain the name and social security number of the mother, father, and child, the date of signature, the address, and all the information required by this chapter. No physician or midwife shall refuse to file or delay the filing of a birth certificate because obstetrical fees have not been paid. If the mother of a child informs the physician, midwife, or a person prescribed by subsection (2) of this section that the child was born out of wedlock, the name of the father shall not be inserted in the birth certificate and the certificate of birth of said child shall be in the surname of the mother. However, the cabinet for human resources shall insert the full name and social security number of the father and the mother, and change the name of the child to the surname of the father if paternity is established in a legal action, or if an affidavit is filed stating that the affiant is the father of the child.

(2) If there is no attending physician or midwife, the father or mother of the child, or the head of the household, owner of the premises, or manager or superintendent of the public or private institution in which the birth occurred shall notify the local registrar, within ten (10) days after the date of birth, of the fact of the birth.

(3) Upon receipt of notice of birth, as provided in subsection (2) of this section, the local registrar shall then secure the necessary information to make a proper certificate of birth *and a hearing risk certificate as required by subsection (4) of this section*, and shall present *them* [~~it~~] to the person who gave him notice of the fact of birth , who shall sign the certificate.

(4) The certificate of birth shall be prescribed and furnished by the cabinet for human resources and shall be designed with due consideration for national uniformity*; but after July 15, 1986, a hearing risk certificate provided by the commission for handicapped children with questions pertaining to hearing loss in newborn infants shall accompany the certificate of birth*. All certificates shall be written legibly, in unfading ink, or typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for therein, or satisfactorily account for their omission except as provided in subsection (3) of KRS 199.570. If a certificate of birth *or the hearing risk certificate* is incomplete, the registrar shall immediately notify the informant, and require him to supply the missing items if they can be obtained.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Cabinet" means the cabinet for human resources;

(2) "Certificate" means the certificate of birth required by KRS 213.050;

(3) "Commission" means the commission for handicapped children;

(4) "Hearing impaired infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(5) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss;

(6) "High risk infant" means a child at birth who is at a higher risk than normal of being hearing impaired due to one (1) or more of the following factors present at birth:

(a) Family history of a congential hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose or throat anomalies;

(d) Below normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea; and

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate and respiration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The commission on receipt of the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family.

(2) The commission's process for identifying high risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants. The commission will secure information missing from certificates which is relevant to identifying high risk infants.

(3) The commission shall involve agencies and organizations which provide services to deaf and hearing impaired children, including, but not limited to, the department of education, the cabinet for human resources and the commisson on the deaf and hearing impaired, in planning for and implemention of this Act. Cumulative demographic data of identified high risk infants shall be made available to agencies and organizations requesting such information for planning purposes.

Section 4. To carry out the purposes of this Act, there is appropriated to the commission for handicapped children out of the General Fund in the State Treasury the sum of $65,000 for the 1986-87 fiscal year and $70,000 for the 1987-88 fiscal year.

HB 448, AN ACT relating to the personal care assistance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.900 TO 205.920 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement the provisions of KRS 205.900 to 205.920 on a statewide basis and shall serve at least eight hundred (800) severely physically disabled adults.

The Committee Amendment No. 1 to HB 448 is as follows:

Amend printed copy of HB 448:

On page 1, line 5,

by deleting the phrase "*eight hundred (800)*" and inserting in lieu thereof the phrase "*two hundred (200)*"

HB 472, AN ACT relating to prescription drug reimbursement under the Kentucky Medical Assistance Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 205.560, the cabinet for human resources shall provide reimbursement under the Kentucky medical assistance program for any prescription drug which is approved by the United States food and drug administration and which may be prescribed by a licensed practitioner in the Commonwealth of Kentucky; provided, that the cabinet for human resources may restrict reimbursement under the medical assistance program for prescription drugs under the federal maximum allowable cost program or any successor programs and may restrict reimbursement for a drug classified as a schedule II *controlled substance by the United States drug enforcement administration upon a finding, based on a record established by a public hearing convened specifically for the purpose of receiving public comment, that such drug is the subject of serious abuse by a substantial number of recipients of medical assistance.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in state government a drug utilization review committee. The committee shall be comprised of six (6) members appointed by the governor and who shall hold office for a term of three (3) years and until their successors are appointed and qualified, except that the members appointed for the first term of office shall be as follows: Three (3) members shall be appointed for three (3) years; two (2) for two (2) years; and one (1) for one (1) year. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for three (3) years and until a successor is appointed and qualified. Three (3) of the appointees shall be made from a list of nominees submitted by the Kentucky medical association. Three (3) of the appointees shall be from a list of nominees submitted by the Kentucky pharmacists association. Vacancies shall be filled for the unexpired term in the same manner as original appointments. The committee shall elect a chairman, vice-chairman and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The committee shall hold a meeting as often as determined necessary.

(2) The committee shall:

(a) Identify drugs reimbursed by the Kentucky medical assistance program that shall be the subject of utilization management; and

(b) Establish criteria for drug utilization management within the Kentucky medical assistance program.

The committee shall contract with an independent consultant with expertise in drug utilization management for the purpose of obtaining recommendations regarding criteria for utilization management of the identified drugs.

HB 548, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21).

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment. *In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the cabinet for human resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:*

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner, administrator, or both or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. department of labor; provided however, that medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Cost exceeding this limit are not reimbursable and shall be bourne by the facility, provided however, that costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the cabinet for human resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless such payments are for services which would otherwise be necessary to the operation of the facility and such services are required by regulations of the cabinet for human resources. Any other such payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless such payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship will be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business and provided however, that an exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

The Committee Amendment No. 1 to HB 548 is as follows:

Amend printed copy of HB 548:

On page 3, line 23

By deleting the comma "," after the word "*owner*";

And on line 25

by deleting the following phrase:

"*administrator, or both*";

And on page 4, line 8

by inserting the word "*Costs*" in lieu of the word "*Cost*";

And on line 17

by inserting a comma "," after the phrase "*or both*"

Motions, Petitions and Communications (continued)

Representative Siler moved the adoption of the following Legislative Citations No. 30 and No. 31. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Joyce Justice, Corbin police dispatcher, for your help in saving the life of a Jacksonville, Florida woman, by phone, on January 1, 1986. Your alertness and the heedful manner in which you reacted, saved the life of a potential suicide victim and you are to be commended for this humanitarian response.

This prestigious body salutes and applauds you for this most noteworthy accomplishment; and for your dedication and commitment to your job and your fellowman. (Sponsored by Representative Siler)

The House of Representatives of the Commonwealth of Kentucky hereby cites and honors, Corbin Policeman, Greg Pace, for your assistance in saving the life of a potential suicide victim on January 1, 1986. You are to be commended for your helpfulness and quick action in a life threatening situation, and you are to be recognized for your humanitarian response.

This prestigious body salutes and applauds you for this most noteworthy accomplishment; and for your dedication and commitment to your job and your fellowman. (Sponsored by Representative Siler)

Representative Deskins moved that HB 65 be taken from the Clerk's Desk and placed in Orders of the Day, February 14, 1986. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, HB 665; Representative M. Brown, HB 245; Representative L. Clark, HB 245; Representative P. Clark, HB 76, HB 298, HB 424; Representative Cowan, HB 245; Representative Cyrus, HB 245; Representative Gedling, HB 245; Representative Handy, HB 138; Representative Johnson, HB 245; Representative B. Jones, HCR 65; Representative Kerr, HB 245; Representative McBee, HR 69, HB 245; Representative Reinhardt, HB 161, HB 431, HB 432; Representative Riner, HB 245; Representative Seum, HB 1, HB 382, HB 452; Representative Yates, HB 245.

The following members filed a request to have their names withdrawn as a co-sponsor: Representative P. Clark, HB 245; Representative McBee, HB 465; Representative Reinhardt, HB 465.

Representative Burnette moved that he be recorded as voting "Yea" on HB 382. Agreed.

Representative Lyne moved that she be recorded as changing her vote from "Nay" to "Yea" on SB 24. Agreed.

The following announcement was made:

Judiciary-Criminal: 8:00 a.m., Friday, February 31, 1986.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 551, by Representative Donnermeyer:

Amend printed copy of HB 551:

On page 1, line 8, after the word "the", by deleting the word "minimum" and by adding the word "charged" after the word "deposit".

Floor Amendment No. 1 to the Committee Substitute to HB 428, by Representative Long:

Amend printed copy of Committee Substitute to HB 428:

on page 18, after line 17, by inserting the following:

"Section 5. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the cabinet and notice of the application for a waste site or facility has been published at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste site or facility. The publication shall take place after the cabinet has made a preliminary determination of the application.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a waste site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this cabinet; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste site or facility may file with the cabinet a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste site or facility is proposed.

(4) No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. In the case of hazardous waste *incinerators,* landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to subsection (5) of this section. *Except that in the case of a hazardous waste incinerator, the procedure set forth in subsection (5) of this section shall not apply if a local unit of government wherein the incinerator is proposed has adopted zoning regulations pursuant to KRS Chapter 100.*

(5) The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste within thirty (30) days after the hearing described in subsections (3) and (4) of this section. If no hearing is requested under the provisions of subsections (3) and (4) of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the landfill or other site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste, the court, urban-county government, or governing body of an incorporated municipality shall so notify the cabinet in writing within ten (10) days. If a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the cabinet if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste in the manner prescribed herein.

(6) The provisions of subsection (5) of this section shall not apply to a proposed regional integrated waste treatment and disposal demonstration facility.

Section 6. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste disposal facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste *incinerator,* landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of

its actions pursuant to KRS 224.855(5), *unless the exception set forth in KRS 224.855(4) applies.* The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) through KRS 224.855(4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in *paragraphs* [~~subsections~~] (b) and (c) of this *subsection* [~~section~~]; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste *incinerators,* landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) Any hazardous waste which would migrate, leach, or generate gas in its normal state shall not be disposed of in a landfill unless such waste has been either neutralized, detoxified, solidified, encapsulated or otherwise treated so that the character of the waste is such that it will prevent substantial migration, leaching or gas generation or unless the landfill is designed and constructed in such manner as will prevent substantial migration, leaching or gas generation, that in either case may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure.

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant.

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). A hazardous waste disposal facility shall maintain additional excess liability coverage in the amount of at least ten million dollars ($10,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be five million dollars ($5,000,000) per occurrence with an annual aggregate of ten million dollars ($10,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment."

Floor Amendment No. 2 to HB 418, by Representative Blevins:

Amend printed copy of HB 418:

on page 2, line 26, by deleting the word "*shall*" and replacing it with the word "*may*"; and on page 3, line 3, after the word "*low*", insert "*and moderate*" and after the word "*families*" insert "*and individuals*".

Floor Amendment No. 1 to HB 420, by Representative Ford:

Amend printed copy of HB 420:

on page 2, line 1, after the "." to insert the following: "*The division of driver's licensing in the transportation cabinet shall by July 1, 1988, inform the agencies in all other states which issue operators' licenses of the reciprocal exemption available. The division shall actively seek to obtain, either through a statutory change or agreement between themselves and these other states, the same exemption for Kentucky residents as is afforded in this subsection.*"

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 14, 1986.

On the roll call the vote was yeas 82—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Dawahare, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Handy, J. Harper, K. Harper, Head, Hines, Holbrook, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McNutt, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 3—Deskins, Guenthner, Overstreet.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 14, 1986

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Holloway and Overstreet.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 13, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HJR 81, by Representatives Blevins, Moberly, Johnson, T. Jones, L. Clark, Noland and Worthington: A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

HB 666, by Representatives Holbrook and Meyer: AN ACT relating to cities participating in the county employes retirement system and declaring an emergency.

HB 667, by Representative Johnson: AN ACT relating to liquefied petroleum gas.

HB 668, by Representatives Johnson, Meyer, Donnermeyer, Layman, McNutt, Ford, Maggard, Rapier, Kerr, Richards, Blandford, Turner, T. Jones, Dawahare and Bronger: AN ACT relating to surrogate parenting.

HB 669, by Representative Barrows: AN ACT relating to educational improvement.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 665.

Appropriations and Revenue: HB 648, HB 651, HB 655.

Banking and Insurance: HB 659, HB 660, SB 156.

Cities: SB 228.

Counties and Special Districts: HB 657, HB 658.

Education: HB 662.

Health and Welfare: HB 656, HB 661.

Judiciary-Civil: HB 649, HB 664.

Labor and Industry: HB 654, HB 653.

Natural Resources and Environment: HB 663.

State Government: HB 650, HB 652, SB 37, SCR 30.

Transportation: SB 211, HB 647.

Report of Committees

The Committee on Rules reported HB 32, HB 209, HB 286, HB 325, HB 420, HB 471, HB 564, HB 579, HCR 46, SB 43, SB 92, HB 418, HB 428, SB 142 and HB 364 have been posted for passage in Orders of the Day, February 18, 1986.

The Committee on Judiciary-Criminal reported HB 301 with Committee Amendment attached thereto, HB 413, HB 431, HB 73 with Committee Amendments attached thereto, HB 263 with Committee Amendment attached thereto, HB 449 with Committee Amendment attached thereto, and HB 470 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 301, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No person shall knowingly make or cause to be made any key for any building, laboratory, facility, room, or other lock of any college or university which is supported wholly, or in part, by the Commonwealth of Kentucky, contrary to any regulation respecting duplication of keys by the board of trustees of such college or university.

Section 2. KRS 164.990 is amended to read as follows:

(1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned.

(2) Any person who violates the provisions of KRS 164.980 shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

(3) Any person who violates Section 1 of this Act shall be guilty of a Class A misdemeanor.

The Committee Amendment No. 1 to HB 301 is as follows:

Amend printed copy of HB 301 on page 1, line 4:

following the word "*key*" to add " *,for which notice of the prohibition against duplication thereof has been given either by impressing into the key the legend "Unlawful to duplicate this key" or by placing the notice "It is unlawful to duplicate this key without the permission of the university." upon the receipt for the key which is to be signed by the recipient of the key,*"

HB 413, AN ACT relating to the crime victim compensation fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.185 is amended to read as follows:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the crime victims' compensation board. In all cases in which defendants are *found* [~~given a sentence of imprisonment or are placed under the supervision of the state parole board or have been placed on probation or other form of conditional release, after an adjudication of~~] guilty [~~or after imposition of sentence~~], whether upon a plea of guilty or after trial, there shall be imposed as an additional cost the sum of ten dollars ($10.00) for all offenses for which imprisonment may be imposed. *This sum shall not be suspended or probated.* The clerk of the court shall collect the cost and forward it monthly to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the general assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

HB 431, AN ACT relating to crime victim compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.010 is amended to read as follows:

The general assembly hereby declares that it serves a public purpose and is of benefit to the state to indemnify those needy *persons* [~~residents of the Commonwealth of Kentucky~~] who are innocent victims of criminal acts and who suffer bodily or[~~, in the case of a child,~~] psychological injury or death as a consequence thereof. Such persons or their dependents may thereby suffer disability, incur financial hardships and become dependent upon public assistance. To that end, it is the general assembly's intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime.

Section 2. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) "Child" means any person less than eighteen (18) years of age.

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, or in the case of a child, psychological injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010.

(5) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(6) "Victim" means a *needy person* [~~resident of this state or the resident of a reciprocal state,~~] who suffers personal physical[~~,~~] or [~~in the case of a child,~~] psychological injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 3. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime.

(2) A person who is criminally responsible for the crime upon which a claim is based or an accomplice of such person or a member of the family of such persons shall not be eligible to receive an award with respect to such claim*, except where the board determines, in a particular case, that the interest of justice so requires.*

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban county, or city jail, prison or other correctional facility, or any state institution maintained and operated by the department for human resources.

Section 4. KRS 346.060 is amended to read as follows:

(1) A claim may be filed by a person eligible to receive an award, as provided in KRS 346.050, or, if such person is a minor, by his parent or guardian.

(2) A claim must be filed by the claimant not later than one (1) year after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than one (1) year after the death of the victim, *provided, however, that upon good cause shown, the board may extend the time for filing if, in a particular case, the interest of justice so requires.*

(3) Claims shall be filed in the office of the board in person or by mail. The board shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the board.

(4) Upon filing of a claim pursuant to this chapter, the board shall promptly notify the *United States attorney (if a federal offense is involved), the* commonwealth attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such *United States attorney,* commonwealth attorney or county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this chapter until such time as such criminal prosecution has been concluded and shall so notify such *United States attorney,* commonwealth or county attorney and the claimant. When such criminal prosecution has been concluded such *United States attorney,* commonwealth or county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to KRS 346.120.

Section 5. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or[~~, in the case of a child,~~] psychological injury to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall [~~exclude therefrom the initial one hundred dollars ($100) of losses incurred and shall~~] be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, *including mental health counseling,* necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. [~~Provided, however, that any award made pursuant to this chapter to a victim sixty-five (65) years of age or older shall not exclude therefrom the initial one hundred dollars ($100) of losses incurred.~~]

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument and grave plot. In no event shall an award for funeral expenses exceed twenty-five hundred dollars ($2,500).

(6) Any award made under this chapter shall not exceed *twenty-five* [~~fifteen~~] thousand dollars *($25,000)* [~~($15,000)~~].

Section 6. KRS 346.185 is amended to read as follows:

(1) There is established in the state treasury the "crime victims' compensation fund," hereinafter referred to as the "fund," to be administered by the crime victims' compensation board. In all cases in which defendants *plead or* are *found guilty of a crime as defined in KRS 500.080(2)* [~~given a sentence of imprisonment or are placed under the supervision of the state parole board or have been placed on probation or other form of conditional release, after an adjudication of guilty or after imposition of sentence, whether upon a plea of guilty or after trial~~], there shall be imposed as an additional cost the sum of ten dollars ($10.00) [~~for all offenses for which imprisonment may be imposed~~]. The clerk of the court shall collect the cost and forward it monthly to the state treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the general assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the crime victims' compensation board.

(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

Section 7. KRS 346.070, Limitation on awards, is repealed.

HB 73, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

When imposing a sentence in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out of pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the cabinet for human resources, the crime victim compensation board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work for a public agency of the Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employe for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(1) Restitution by payment may be ordered in a lump sum or in specified payments;

(2) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the monies as ordered by the court;

(3) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(4) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(5) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(6) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation;

(7) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out of pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order;

(8) When a defendant is employed or is self-employed or has any other continuing source of income, the court may order the defendant to place all of his income from any source into a special account maintained by the circuit clerk. Monies placed in this account shall be disbursed by the clerk according to the order of the court. In ordering disbursement of the monies the court shall consider:

(a) Lawful debts of the defendant;

(b) Restitution payments;

(c) Support and other payments required by court order;

(d) Essential living expenses of the defendant and his family; and

(e) Other expenses of the defendant;

(9) The court shall prioritize the needs of the defendant and the defendant's family, the victim of the crime, and others and shall set an equitable distribution of the available funds. The court shall make the terms and conditions of such order a part of the conditions of any probation or conditional discharge granted to the defendant. The parole board shall make the terms and conditions of such order a part of the conditions of parole if the restitution has not already been performed in full prior to the granting of the parole.

Section 2. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) [~~When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out of pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the cabinet for human resources, the crime victim compensation board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work for a public agency of the~~

~~Commonwealth, a county, or a city for a period of time equal to that determined in the case of working for a victim. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employe for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:~~

~~(a) Restitution by payment may be ordered in a lump sum or in specified payments;~~

~~(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the monies as ordered by the court;~~

~~(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;~~

~~(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;~~

~~(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;~~

~~(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation;~~

~~(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out of pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.~~

~~(4)~~] When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(4)[~~(5)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement pursuant to this provision shall not exceed six months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in custody under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment.

The Committee Amendment No. 1 to HB 73 is as follows:

Amend printed copy of HB 73:

On page 3, by deleting lines 23 through 26 in their entirety; and

on page 4, by deleting lines 1 through 11 in their entirety; and

on page 4, line 12, by deleting "*(9)*" and inserting in lieu thereof "*(8)*"

The Committee Amendment No. 2 to HB 73 is as follows:

Amend printed copy of HB 73:

On page 1, line 15, following "*offense*" to add "*except upon good cause shown by the defendant*"

HB 263,AN ACT relating to privileged communications between sexual assault counselors and sexual assault victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section the following words and phrases shall have the meanings given to them in this subsection:

(a) "Rape crisis center." Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

(b) "Sexual assault counselor." A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone forty(40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

(c) "Victim." A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by a sexual assault.

(d) "Confidential communication." Information transmitted between a victim of sexual assault and a sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than those who are present to further the interests of the victim in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information received by the sexual assault counselor in the course of that relationship.

(2) A sexual assault counselor has a privilege not to be examined as a witness in any civil or criminal proceeding without the prior written consent of the victim being counseled by the counselor as to any confidential communication made by the victim to the counselor or as to any advice, report or working paper given or made in the course of the consultation.

The Committee Amendment No. 1 to HB 263 is as follows:

Amend printed copy of HB 263:

On page 2, line 21,

by adding a new subsection 3 to read as follows:

"*(3) The privilege established by this section shall not apply:*

(a) In matters of proof concerning chain of custody of evidence;

(b) In matters of proof concerning the physical appearance of the victim at the time of the injury;

(c) Where the sexual assault counselor has knowledge that the victim has given perjured testimony and the defendant or the state has given notice to the court that perjury may have been committed; or

(d) To any information revealed by a victim which relates to the identity of the victim's assailant."

HB 449, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of an offense committed by another person when he knowingly permits a person who is twelve (12) years of age or less or who is physically helpless or mentally helpless of whom he has actual custody to be subjected to sexual intercourse, deviate sexual intercourse, or sexual contact committed by such other person.

(2) In subsection (1) of this section, "physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.

Section 2. KRS 530.020 is amended to read as follows:

(1) A person is guilty of incest when he has sexual intercourse with a person whom he knows to be an ancestor, descendant, brother or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.

(2) *Notwithstanding any provision of KRS 505.040 or 505.050 to the contrary, a conviction for any degree of rape shall not bar a conviction for incest.*

(3) Incest is a Class C felony.

Section 3. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: Provided, however, that only such evidence in aggravation as the State has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment.

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating Circumstances.

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions.

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree, or sodomy in the first degree.

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one person in a public place by means of a destructive device weapon or other device which would normally be hazardous to the lives of more than one person.

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit.

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties.

6. The offender's act or acts of killing were intentional and resulted in multiple deaths.

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties.

8. The offender's act of killing was intentional and the victim was a person under the age of fourteen (14) years.

(b) Mitigating Circumstances.

1. The defendant has no significant history of prior criminal activity.

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime.

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act.

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime.

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor.

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime.

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime.

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

The Committee Amendment No. 1 to HB 449 is as follows:

Amend printed copy of HB 449:

On page 2, line 2, by deleting "*conviction*" and by inserting in lieu thereof, "*prosecution*"; and on

page 2, line 3, by deleting "*conviction*" and inserting in lieu thereof "*concurrent prosecution*"

HB 470, AN ACT relating to the arrest powers of peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A Kentucky peace officer who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess the same powers of arrest in the requesting county as he possesses in the county in which he is a peace officer.

The Committee Amendment No. 1 to HB 470 is as follows:

Amend printed copy HB 470:

On page 1, line 6, following "*arrest*" to add "*with respect to that matter*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: SB 213, HR 69.

Transportation: HB 353, SB 120.

Judiciary-Criminal: HB 295, HB 535, HB 637, HB 559.

Banking and Insurance: HB 659.

Calendar

SB 178, HB 61, HB 70, HB 124, HB 176, HB 317, HB 423, HB 481, HB 497, HB 515, HB 586, HCR 51, HB 504, HB 509, HB 528, HB 565, HB 323, HB 404, HB 448, HB 472 and HB 548 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 466, with Committee Amendment attached thereto taken from Orders of the Day and ordered read at read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Amendment No. 1 to HB 466. Agreed.

Representative Scorsone moved HB 466, as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 6. (See February 14, 1986, roll call on HB 466.

HB 466, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which HB 466, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 405 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that HB 405 be passed.

On the roll call the vote was: Yeas 42, Nays 37. (See February 14, 1986, roll call on HB 405—Appendix A.)

HB 405 was passed and the title agreed to.

Representative Burch moved that the vote by which HB 405 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 65 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that HB 65 be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See February 14, 1986, roll call on HB 65—Appendix A.)

HB 65 was passed and the title agreed to.

Representative Deskins moved that the vote by which HB 65 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 216, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 2 to HB 216. Agreed.

Representative Long moved the adoption of Committee Amendment No. 1 to HB 216. Agreed.

Representative Long moved that HB 216, as amended, be passed.

On the roll call the vote was: Yeas 30, Nays 51 (See February 14, 1986, roll call on HB 216—Appendix A.)

HB 216, as amended, was defeated.

Representative Deskins moved that the vote by which HB 216, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 63 and SJR 7 have been examined and found correctly enrolled. SB 63 and SJR 7 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 10:36 a.m.)

Senate Message

Announcing passage of SB 159, HB 199 with Senate Amendment, HB 35, HB 158.

Motions, Petitions and Communications

Representative Donnermeyer moved the adoption of the following Legislative Citation No. 32. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates, MR. AND MRS. DUKE O. GRIGSON, on your blissful 60th Wedding Anniversary, March 2, 1986. Love and affection have cemented many tender ties of a beautiful and happy relationship for you. Sharing life's joys and sorrows for sixty years is the ultimate in living the good life. May God's eternal goodness crown you with lasting love, health and happiness.

This prestigious body extends to you, Duke and Nathalee, our very best wishes as you celebrate this blessed occasion. (Sponsored by Representative Donnermeyer)

Representative M. Brown moved to suspend the rules to consider a Resolution. Agreed.

Representative M. Brown moved the adoption of the following HR 77:

HR 77, A RESOLUTION urging the Secretary of Transportation to increase the weight classification on segments of Kentucky Route 1851 and Kentucky Route 2317 in Jefferson and Bullitt Counties.

WHEREAS, Ky 1851 from the junction of Ky 1450 to the junction of Ky 2317 and Ky 2317 south to its termination point is currently a Class A highway restricted to gross weights of 44,000 pounds; and

WHEREAS, the total mileage of this route is approximately 1.2 miles, but is responsible for the movement of a significant amount of black shale annually; and

WHEREAS, the low weight limits on this stretch of road is unwarranted because the only bridge being utilized was reconstructed as a part of the Interstate 65 project and the balance of the route is without bridges, grades or other significant factors which may cause safety problems; and

WHEREAS, the operator of the black shale venture is losing business to Indiana because of an inability to move commodities in sufficient quantities to compete; and

WHEREAS, despite the fact that this company contributes in excess of $20,000 annually in severance, sales, and road use taxes, the department of highway's reluctance to increase the weights causes tax losses in areas related to weight distance taxes, higher registration fees and other road use fees; and

WHEREAS, the department of highways has misled the owner of this operation to believe that the General Assembly has exclusive control over weight classifications on specific highway segments;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation be urged to increase the weight classification from Class A to a Class AAA on Kentucky Route 1851 from the junction of Kentucky Route 1450 to the junction of Kentucky Route 2317 and then south on Kentucky 2317 to its termination point.

Section 2. That should there be any reason the Secretary cannot meet the intent of this resolution, a written response be provided to the sponsors of this resolution as to those reasons.

Section 3. That a copy of this resolution be transmitted to the Secretary of the Kentucky Transportation Cabinet.

HR 77 was adopted by voice vote.

Representative Williams moved that he be recorded as voting "Yea" on HB 466. Agreed.

Representative Williams moved that he be recorded as voting "Nay" on HB 405. Agreed.

Representative Williams moved that he be recorded as voting "Yea" on HB 65. Agreed.

Representative Priddy moved that she be recorded as voting "Yea" on HB 405. Agreed.

Representative Worthington moved that he be recorded as voting "Nay" on HB 405. Agreed.

Representative Siler moved the adoption of the following Legislative Citation No. 33. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, LEONARD O. PETREY, as one of thousands of Kentuckians who served in the United States Army during four campaigns throughout Africa and the Middle East-European Theater in World War II. After more than forty years he is receiving just recognition of his gallent service by the award of the coveted Bronze Star for Valor.

Additionally he is receiving the Purple Heart, given only to those who shed blood in combat and four other campaign and service medals including the Combat Infantry Badge.

The Representatives of the Commonwealth of Kentucky join all Kentucky citizens in commending him, and on this 14th day of February, 1986 so adjourn the House of Representatives in his honor. (Sponsored by Representative Siler)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1, to HB 286, by Representative Burnette:

Amend printed copy of HB 286:

On page 2, line 10, after "*involved*" insert "*and/or guaranteed agreement*".

Floor Amendment No. 1 to HB 424, by Representative Ellington:

Amend printed copy of HB 424:

On page 1, line 4, by deleting all the new language after the word "*mean*" ending with the word "*funds*" on line 6 and inserting in lieu thereof "*the Commonwealth of Kentucky, its agencies or any political subdivision thereof*"

Floor Amendment No. 2 to HB 428, by Representative Worthington:

Amend printed copy of HB 428:

on page 18, after line 17, by inserting the following:

"Section 5. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste disposal facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5), except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) through KRS 224.855(4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in subsections (b) and (c) of this section; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) Any hazardous waste which would migrate, leach, or generate gas in its normal state shall not be disposed of in a landfill unless such waste has been either neutralized, detoxified, solidified, encapsulated or otherwise treated so that the character of the waste is such that it will prevent substantial migration, leaching or gas generation or unless the landfill is designed and constructed in such manner as will prevent substantial migration, leaching or gas generation, that in either case may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure.

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant.

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). [~~A hazardous waste disposal facility shall maintain additional excess liability coverage in the amount of at least ten million dollars ($10,000,000).~~] The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be *three million dollars ($3,000,000)* [~~five million dollars ($5,000,000)~~] per occurrence with an annual aggregate of *six million dollars ($6,000,000)* [~~ten million dollars ($10,000,000)~~]. Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 670, by Representative Kerr: AN ACT relating to special districts.

HB 671, by Representatives Richards, Moberly, Curd, Smith, Noe, Hines, Meyer, Mann, Kerr and Blevins: AN ACT relating to higher education.

HB 672, by Representatives Farrow, Hancock, Crupper, Little, Long, Barrows, T. Jones, Noe, Burnette, Arnold, Turner, Brinkley, Morris, Cyrus, Stone, J. Harper, White, Bruce, Donnermeyer, Burch, Layman and Stumbo: AN ACT relating to state personnel.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: HB 150, HB 219, HB 646, HB 605.

Banking and Insurance: HB 631, HB 604.

Agriculture and Small Business: HB 665, HR 27.

Representative Donnermeyer moved to withdraw the Floor Amendment No. 1 to HB 551. Agreed.

Representative Morris announced the appointment of the following Subcommittee of the Committee on State Government regarding HB 326.

Chairman, Representative Clapp, Representative O'Brien, Representative Bronger, Representative Cyrus, Representative Donnermeyer, Representative Gedling, Representative Gray, Representative Freibert and Representative B. Richardson.

Announcements

Education: Cancelled on Tuesday, February 18, 1986.

Budget Subcommittee on Justice: Room 103, on adjournment.

Labor: 9:00 a.m. Tuesday, February 18, 1986, Room 104.

Special Meeting, February 19, 1986, on adjournment, Room 105.

Adjournment

Representative Morris moved that the House adjourn until 4:00 p.m., Tuesday, February 18, 1986.

On the roll call the vote was yeas 78—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Crupper, Cyrus, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, J. Harper, K. Harper, Head, Heleringer, Jensen, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Napier, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Stewart, Stone, Stumbo, Thomas, Todd, Turner, White, Yates. Nays 4—Cowan, Holbrook, R. Jones, Williams.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 18, 1986

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Donald Nunnelly, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, LeMaster and P. Richardson.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 14, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 182, SB 193, SB 208, SB 220, SB 225, SB 233, SJR 54, HB 178 with Senate Amendment, HB 277, with Senate Amendment, HB 4, HB 30, HB 147 and HB 154.

Introduction of Bills and Resolutions

HB 673, by Representatives Farrow, Crupper, Noland, Turner, Long, Gedling, Kerr, Stone, Richards, Napier, Lyne, Rose, Pritchett, P. Richardson and Cline: AN ACT relating to fines and court costs.

HB 674, by Representative Long: AN ACT relating to dams and reservoirs.

HB 675, by Representative Freibert: AN ACT relating to exceptional children.

HB 676, by Representatives L. Clark, Bronger, Rose, K. Harper and Nett: AN ACT relating to individual income tax.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Cities: HB 666.

Counties and Special Districts: HB 670.

Education: HB 669, HB 671.

Judiciary-Civil: HB 668.

Labor and Industry: HB 667.

Natural Resources and Environment: HJR 81.

State Government: HB 672, SB 159.

Report of Committees

The Committee on Committees reported the following committee change:

Representative Siler is to be appointed to the following committee: Natural Resources and Environment. (Replacing Representative Guenthner)

The Committee on Rules reported HB 61, HB 124, HB 323, HB 481, HB 497, HB 504, HB 509, HB 515, HB 528, HB 548, HB 565, HB 586, SB 178 and SB 69 have been posted for passage in Orders of the Day, February 19, 1986.

The Committee on Rules reported HB 404 and HB 234 have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Banking and Insurance reported HB 135, with Committee Substitute and Committee Title Amendment attached thereto, HB 417, HB 607, HB 612 and SB 72 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 135, AN ACT relating to financial disclosure by banks, savings and loan associations, credit unions, insurance companies, and other financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It is the intent of this Act to assist the cabinet in ascertaining eligibility of applicants for or recipients of benefits under programs administered by the cabinet and to prevent abuse of such programs by imposing a public duty upon all banks, savings and loan associations, credit unions, insurance companies and other financial institutions to cooperate with the cabinet and to disclose financial data pertinent to such applicants or recipients or members of their respective households.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any existing state statute or regulation to the contrary, all banks, savings and loan associations, credit unions, insurance companies and other financial institutions shall, upon request of the secretary, inform such representative, no later than fifteen (15) days after such request, of the type of account, the amount thereof, the activity of such account and other relevant data pertinent to an applicant for or recipient of benefits under programs administered by the cabinet and members of such households. Information disclosed by the cabinet to any bank, savings and loan association, credit union, insurance company or other financial institution pursuant to this section shall be deemed to be privileged and shall not be disclosed by any such institution to any other party except as may be authorized by law.

(2) Banks, savings and loan associations, credit unions, insurance companies and other financial institutions may charge the cabinet for services rendered pursuant to subsection (1) of this section in accordance with a reasonable fee schedule prescribed by the commissioner of banking and securities, not to exceed actual cost.

Section 3. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employes, or to any board or official functioning under KRS Chapter 205 which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information obtained shall not be published or be open for public inspection except that necessary information and records may be furnished to:

(a) Public employes in the performance of their duties in connection with the administration of the public assistance program;

(b) All law enforcement agencies including county attorneys, commonwealth's attorneys, district and circuit court judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the general assembly of the Commonwealth of Kentucky and the congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator; [~~and~~]

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; Provided, That any names or information obtained through access to such records shall not be used for any commercial or political purposes*; and*

(e) Any bank, savings and loan association, credit union, insurance company or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employe of the cabinet of information obtained pursuant to this Act is prohibited.

Section 4. KRS 289.271 is amended to read as follows:

(1) Every member shall have the right to inspect such books and records of an association as pertain to his loan or savings account. Otherwise, the right of inspection and examination of the books and records shall be limited*:*

(a) To the commissioner or his duly authorized representatives as provided in this chapter

(b) To persons duly authorized to act for the association, and

(c) To any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

(2) *Except as otherwise authorized by Section 2 of this Act,* the books and records pertaining to the accounts and loans of members shall be kept confidential by the association, its directors, officers and employes, and by the commissioner, his examiners and representatives, except where the disclosure thereof shall be compelled by a court of competent jurisdiction, and no member or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors.

Section 5. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or *subsections (1) to (3) of KRS* 205.175 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

(2) *Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.*

(3) Any person who wilfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned for not more than thirty (30) days, or both. Each failure or violation shall constitute a separate offense.

(4)[~~(3)~~] Any person who violates the provisions of subsections (1), (2) and (3) of KRS 205.850 shall be guilty of a Class D felony.

(5)[~~(4)~~] Any person who violates subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any such application, claim, report or document, or in any combination or aggregation thereof, is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony.

(6)[~~(5)~~] Any person who violates the provisions of subsection (5) of KRS 205.850 shall be guilty of a Class C felony.

(7)[~~(6)~~] Any person who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of[~~:~~

~~(a)~~] payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(8)[~~(7)~~] Any provider who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, including the penalty set forth in *subsection (7) of this section* [~~KRS 205.990(6)~~], forfeit and pay civil penalties of:

(a) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(b) Payment of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(9) Any bank, savings and loan association, credit union, insurance company or other financial institution which fails to comply with the provisions of subsection (1) of Section 2 of this Act or which submits fraudulent information to the cabinet shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each violation.

The Committee Substitute to HB 135 is as follows:

HB 135, AN ACT relating to financial disclosure by banks, savings and loan associations, credit unions, insurance companies, and other financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It is the intent of this Act to assist the cabinet in ascertaining eligibility of applicants for or recipients of benefits under programs administered by the cabinet and to prevent abuse of such programs by imposing a public duty upon all banks, savings and loan associations, credit unions, and other financial institutions to cooperate with the cabinet and to disclose financial data pertinent to such applicants or recipients or members of their respective households.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any existing state statute or regulation to the contrary, all banks, savings and loan associations, credit unions, and other financial institutions shall, upon request of the secretary, inform such representative, no later than fifteen (15) days after such request, of the type of account, the amount thereof, the activity of such account and other relevant data pertinent to an applicant for or recipient of benefits under programs administered by the cabinet and members of such households. Information disclosed by the cabinet to any bank, savings and loan association, credit union, or other financial institution pursuant to this section shall be deemed to be privileged and shall not be disclosed by any such institution to any other party except as may be authorized by law.

(2) Banks, savings and loan associations, credit unions, and other financial institutions may charge the cabinet for services rendered pursuant to subsection (1) of this section in accordance with a reasonable fee schedule prescribed by the commissioner of banking and securities, not to exceed actual cost.

(3) Written consent to disclosure of financial data as provided in this Act shall be given by applicants for benefits under a program administered by the cabinet at the time of application and by recipients of benefits when eligibility is reconsidered or redetermined.

Section 3. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employes, or to any board or official functioning under KRS Chapter 205 which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information obtained shall not be published or be open for public inspection except that necessary information and records may be furnished to:

(a) Public employes in the performance of their duties in connection with the administration of the public assistance program;

(b) All law enforcement agencies including county attorneys, commonwealth's attorneys, district and circuit court judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the general assembly of the Commonwealth of Kentucky and the congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator; [~~and~~]

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; Provided, That any names or information obtained through access to such records shall not be used for any commercial or political purposes*; and*

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employe of the cabinet of information obtained pursuant to this Act is prohibited.

Section 4. KRS 289.271 is amended to read as follows:

(1) Every member shall have the right to inspect such books and records of an association as pertain to his loan or savings account. Otherwise, the right of inspection and examination of the books and records shall be limited*:*

(a) To the commissioner or his duly authorized representatives as provided in this chapter

(b) To persons duly authorized to act for the association, and

(c) To any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

(2) *Except as otherwise authorized by Section 2 of this Act,* the books and records pertaining to the accounts and loans of members shall be kept confidential by the association, its directors, officers and employes, and by the commissioner, his examiners and representatives, except where the disclosure thereof shall be compelled by a court of competent jurisdiction, and no member or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors.

Section 5. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or *subsections (1) to (3) of KRS* 205.175 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

(2) *Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.*

(3) Any person who wilfully violates any of the provisions of KRS 205.310, or any rule or regulation

thereunder, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), or imprisoned for not more than thirty (30) days, or both. Each failure or violation shall constitute a separate offense.

(4)[~~(3)~~] Any person who violates the provisions of subsections (1), (2) and (3) of KRS 205.850 shall be guilty of a Class D felony.

(5)[~~(4)~~] Any person who violates subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any such application, claim, report or document, or in any combination or aggregation thereof, is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony.

(6)[~~(5)~~] Any person who violates the provisions of subsection (5) of KRS 205.850 shall be guilty of a Class C felony.

(7)[~~(6)~~] Any person who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of[~~:~~

~~(a)~~] payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(8)[~~(7)~~] Any provider who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, including the penalty set forth in *subsection (7) of this section* [~~KRS 205.990(6)~~], forfeit and pay civil penalties of:

(a) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(b) Payment of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(9) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of Section 2 of this Act or which submits fraudulent information to the cabinet shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each violation.

The Committee Title Amendment No. 1 to Committee Substitute to HB 135 is as follows:

Amend printed copy of the Committee Substitute for HB 135.

On page 1, by amending the title to read as follows: "AN ACT relating to financial disclosure by banks, savings and loan associations, credit unions, and other financial institutions."

HB 417, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section the following terms shall have the following respective meanings:

(a) "Check" means any check, draft, or similar order for the withdrawal or payment of money, but such term does not include any counter check or similar draft or order, nor does it include any check, draft or order provided upon the opening of any account for use by the customer until printed checks for such account have been prepared;

(b) "Federal or state financial institution" means any financial institution and any bank, savings and loan association, or credit union organized under the laws of the United States and operated in this state;

(c) "Personal checking account" means any demand or similar deposit account that is opened or established in the name of one (1) or more natural persons with a federal or state financial institution subsequent to the effective date of this Act and from which signatories on the account can withdraw or order the payment of funds by using a check.

(2) All checks provided directly or indirectly by a federal or state financial institution for use in connection with a particular personal checking account shall have the numerical month and year in which the account was opened legibly printed on the faces of the checks.

HB 607, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall prescribe guidelines for coordination of benefits by group health insurance policies. All group health insurance policies delivered, issued for delivery, or renewed in Kentucky after the effective date of this Act shall comply with the guidelines prescribed by the commissioner.

SECTION 2. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Corporations doing business pursuant to this subtitle are subject to coordination of benefits guidelines prescribed pursuant to Section 1 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In his discretion, the commissioner may include health maintenance organizations doing business pursuant to this subtitle in coordination of benefits guidelines prescribed pursuant to Section 1 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 43 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In his discretion, the commissioner may include prepaid dental plan organizations doing business pursuant to this subtitle in coordination of benefits guidelines prescribed pursuant to Section 1 of this Act.

HB 612, AN ACT relating to low-cost housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Commonwealth" means the Commonwealth of Kentucky;

(3) "Corporation" means the Kentucky housing corporation created by this chapter;

(4) "Sponsors" means persons, corporations, associations, partnerships or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to persons and families of lower and moderate income, and shall include without limitation, organizations engaged in the production, origination and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended;

(5) "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders and/or developers;

(6) "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) "Governmental agency" means any city, county, or other political subdivision of the Commonwealth, the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof;

(8) "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;

(10) "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured or guaranteed by or for which there is a commitment to make, insure and guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity, including private mortgage insurance, which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

(11) "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower and moderate income and making, installing or constructing nonresidential housing improvements, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare such land primarily for residential housing construction;

(12) "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(13) "Persons and families of lower and moderate income" shall include only those individuals whose family income combined does not exceed *an agregate total of:*

(a) Twenty-five thousand dollars ($25,000) per year, *for the fiscal year ending June 30, 1986; and for subsequent fiscal years ending June 30, twenty-five thousand dollars ($25,000) increased to the nearest one hundred dollars ($100) by the percentage increase, if any, in the annual average for all items of the consumer price index for all urban consumers (CPI-U) of the bureau of labor statistics of the United States department of labor for the preceding calendar year, plus:*

(b) Fifteen hundred dollars ($1,500) for head of household status, if applicable plus:

(c) Fifteen hundred dollars ($1,500) for each dependent living in the subject household, plus:

(d) Twenty-five hundred dollars ($2,500) if the residential housing is situated in an eastern Kentucky county as designated by the board of directors of the corporation [~~or as shall be determined from time to time by the legislative program review and investigations committee of the Kentucky general assembly established as set forth in KRS 6.905~~];

(14) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower and moderate income, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other non-housing facilities as may be incidental or appurtenant thereto; and

(15) "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs;

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family.

SB 72, AN ACT relating to errors and omissions insurance for real estate licensees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), are mandated to carry errors and omissions insurance to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission must be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining errors and omissions insurance independently, provided that the coverage contained in such policy complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including but not limited to the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the commission by the annual license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) Should the commission be unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group insurance program at a reasonable premium, not to exceed one hundred dollars ($100), the insurance requirement mandated by this section shall be void during the applicable contract year.

(8) The errors and omissions insurance mandated by this section shall become effective April 1, 1987.

The Committee on Judiciary-Civil reported HB 540, HB 582, and HB 596 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 540, AN ACT relating to the consignment of fine art.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Artist" means the person who creates a work of fine art or, if such person is deceased, such person's heir, legatee, or personal representative;

(2) "Fine art" shall include, but is not limited to, a painting, sculpture, drawing, work of graphic or photographic art, including an etching, lithograph, offset print, silk screen, or work of graphic art of like nature, a work of calligraphy, a work of folk art or craft, or a work in mixed media including a collage, assemblage, or any combination of the foregoing art media;

(3) "Art dealer" means a person engaged in the business of selling, as either a primary or supplemental source of income, works of fine art, other than a person exclusively engaged in the business of selling goods at public auction;

(4) "Person" means an individual partnership, corporation, association or other group, however organized; and

(5) "Consignment" means a delivery of a work of fine art under which no title to, estate in, or right to possession of, fine art, superior to that of the consignor shall vest in the consignee, notwithstanding the consignee's power or authority to transfer and convey to a third person all of the right, title and interest of the consignor in and to such fine art.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any custom, practice or usage of the trade to the contrary, whenever an artist delivers or causes to be delivered a work of fine art of the artist's own creation to an art dealer in the Commonwealth for the purpose of exhibition or sale, or both, on a commission, fee or other basis of compensation, the delivery to and acceptance of such work of fine art by the art dealer shall constitute a consignment, unless the delivery to the art dealer is pursuant to an outright sale for which the artist receives or has received full compensation for the work of fine art upon delivery, or will receive full compensation pursuant to an installment agreement executed prior to or upon delivery.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The following provisions shall apply to consignment of a work of fine art:

(1) The art dealer, after delivery of the work of fine art, shall constitute an agent of the artist for the purpose of sale or exhibition of the consigned work of fine art;

(2) The work of fine art shall constitute property held in trust by the consignee for the benefit of the consignor, and shall not be subject to claim by a creditor of the consignee. Should the consignee initiate or be forced into bankruptcy proceedings, the consignor shall have the continuing authority to claim physical possession of the work of fine art;

(3) The consignee shall be responsible for the loss of, or damage to, the work of fine art; and

(4) The proceeds from the sale of the work of fine art shall constitute funds held in trust by the consignee for the benefit of the consignor. Such proceeds shall first be applied to pay any balance due the consignor, unless the consignor expressly agrees otherwise in writing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A work of fine art received as a consignment shall remain trust property, notwithstanding the subsequent purchase thereof by the consignee directly or indirectly for the consignee's own account until the price is paid in full to the consignor or upon agreement to an installment sales contract. If an installment sales contract has not been agreed to and such work is thereafter resold to a bona fide purchaser before the consignor has been paid in full, the proceeds of the resale received by the consignee shall constitute funds held in trust for the benefit of the consignor to the extent necessary to pay any balance still due to the consignor and such trusteeship shall continue until the fiduciary obligation of the consignee with respect to such transaction is discharged in full.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any provision of a contract or agreement whereby the consignor waives any provision of this Act is void.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall not apply to a written contract executed prior to its effective date, unless either the parties agree by mutual consent that the provisions of this Act shall apply or such contract is extended or renewed after the effective date of this Act.

(2) The provisions of this Act shall not affect the remedies at law available to a party to a consignment contract upon breach of the contract, where such remedies are not in opposition to the provisions of this Act.

(3) The provisions of this Act shall prevail over any conflicting or inconsistent provisions of KRS Chapter 355.

HB 582, AN ACT relating to landlords and tenants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 383.010 is amended to read as follows:

(1) Rent may be recovered by distress, attachment or action, and shall bear six percent (6%) interest per annum from the time it is due.

(2) If the owner or holder alienates or assigns his estate, term or the rent thereafter to fall due thereon, the alienee or assignee may recover the rent that falls due thereafter.

(3) The personal representative of a person to whom any rent was due and unpaid at the time of his death shall have the same remedy by action or by distress, for the recovery of the arrears of such rent, that the decedent would have had if living.

(4) A person entitled to rents depending upon the life of another may, notwithstanding the death of the latter, have the same remedy, by action or distress, for the rents in arrears, as he might have had if such person were living.

(5) Rent may be recovered from the lessee or other person owing it, or his assignee or undertenant, or the representative of either by any of the remedies given in this chapter. But, the assignee or subtenant shall be liable only for the rent accrued after his interest began.

(6) The same remedies to recover arrearages of rent due on a lease for life or lives shall be allowed as if the lease were for years.

(7) A demand for recovery of rent may be brought within an action alleging forcible entry or detainer or within an action authorized by KRS 383.660(3), or as a separate action.

Section 2. KRS 383.200 is amended to read as follows:

(1) The words "possession," "entry," "detainer," in KRS 383.200 to 383.285, refer to lands and tenants.

(2) A forcible entry is:

(a) An entry without the consent of the person having the actual possession;

(b) As to landlord, an entry upon the possession of his tenant at will or by sufferance, whether with or without the tenant's consent.

(3) A forcible detainer is:

(a) The refusal of a tenant to give possession to his landlord after the expiration of his term, *or after his substantive noncompliance with the rental agreement which would invalidate such agreement, including, but not limited to, the nonpayment of rental amounts due*; or of a tenant at will or by sufferance to give possession to the landlord after the determination of his will;

(b) The refusal of a tenant of a person who has made a forcible entry to give possession, on demand, to the person upon whose possession the forcible entry was made;

(c) The refusal of a person who has made a forcible entry upon the possession of one who acquired it by a forcible entry to give possession, on demand, to him upon whose possession the first forcible entry was made;

(d) The refusal of a person who has made a forcible entry upon the possession of a tenant for a term to deliver possession to the landlord, upon demand, after the term expires; and, if the term expires whilst a writ of forcible entry sued out by the tenant is pending, the landlord may, at his cost and for his benefit, prosecute it in the name of the tenant.

Section 3. KRS 383.660 is amended to read as follows:

(1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with KRS 383.605 or 383.610, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice. If the breach is not remedied in fifteen (15) days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the landlord may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven (7) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) Except as provided in KRS 383.505 to 383.715, the landlord may recover damages, *which may include, but is not limited to, rental amounts due,* and obtain injunctive relief, *which may include, but is not limited to, eviction of the tenant,* for any noncompliance by the tenant with the rental agreement or KRS 383.605 or 383.610. *Demands for damages and injunctive relief may be brought within the same action.* If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

Section 4. KRS 383.685 is amended to read as follows:

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in KRS 383.660(3); *however, each of these claims may be brought within the same action.*

HB 596, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 452.480 is amended to read as follows:

An action which is not required by the foregoing provisions of KRS 452.400 to 452.475 to be brought in some other county may be brought in any county in which the defendant, or in which one of several defendants, who may be properly joined as such in the action, resides or is summoned. *In those instances when the jurisdictional amount involved requires the action to be heard in district court, the action may also be brought in the county where goods were purchased or services performed which give rise to the actions.*

The Committee on Labor and Industry reported HB 117, with Committee Amendment attached thereto, and HB 435, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 117, AN ACT relating to hazardous duty coverage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the transportation cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. *Hazardous positions shall also include positions in the corrections cabinet with duties that require the employe's presence within a state correctional institution.*

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. *Positions in the corrections cabinet with duties that require the employe's presence within a state correctional institution shall be given hazardous position coverage.* Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the cabinet or county indicating that the required employer contributions have been provided for in the budget of the employing cabinet or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this

section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's cabinet or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

Section 2. KRS 196.160 is amended to read as follows:

(1) The secretary shall appoint a warden, a receiver and other necessary employes for each of the state penal and correctional institutions. The compensation of these officers and employes may include maintenance.

(2) The corrections cabinet shall make the contributions required by KRS 61.592 for hazardous position coverage for its employes in positions with duties that require the employe's presence within a state correctional institution.

The Committee Amendment No. 1 to HB 117 is as follows:

Amend printed copy of HB 117:

On page 3, line 1, by inserting after the word "behalf" the following: "*or a monthly schedule of payments prior to his retirement to allow the employe to prepay the difference between the nonhazardous and hazardous service*"

HB 435, AN ACT relating to the payment of wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

Except for employers who have been doing business in the state for five (5) consecutive years, every employer engaged in construction work, or the severance, preparation, or transportation of minerals, shall furnish on a form prescribed by the commissioner a performance bond to assure the payment of all wages due from the employer. Surety for the bond shall be an amount of money equal to the employer's gross payroll operating at full capacity for four (4) weeks. Any employe whose wages are secured by a bond may obtain payment of those wages, liquidated damages, and attorney's fees as provided by law on presentation to the commissioner of a final judgment entered by a court of competent jurisidiction. The bond may be terminated, with the approval of the commissioner, on submission of the employer's statement, lawfully administered under oath, that the employer has ceased doing business in the state and that all due wages have been paid.

The Committee Amendment No. 1 to HB 435 is as follows:

Amend printed copy of HB 435:

page 1, line 5, after the word "*work*" by deleting "*, or*" and by inserting in lieu thereof: "*dealing with*"

The Committee on Transportation reported HB 353 and HB 412 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 353, AN ACT relating to emergency vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the state police, a public police department, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a *paid or* volunteer fireman *or paid or volunteer ambulance personnel* while responding to an emergency *or to a location where an emergency vehicle is based.*

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 2. KRS 189.950 is amended to read as follows:

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency *or to a location where another emergency vehicle is based* in the performance of his official duties as a member of a fire department or rescue squad.

(5) Any constable may, upon approval of the fiscal court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(6) Any person who is a paid or voluntary member of any ambulance service furnishing emergency medical services for a political subdivision of the state may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief or director of the ambulance service. He may use such lights and equipment only while proceeding to the scene of an emergency, a medical facility, or to a location where another emergency vehicle is based in the performance of his official duties as a member of the ambulance service.

Section 3. KRS 189.993 is amended to read as follows:

(1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars ($60.00) and costs of prosecution.

(3) Any person who violates any provision of KRS 189.205 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100).

(4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100).

(5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars ($60.00) nor more than two hundred dollars ($200) or be imprisoned for not more than thirty (30) days, or both.

(6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars ($20.00) nor more than thirty-five dollars ($35.00).

(7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars ($60.00) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not more than thirty (30) days, or both.

(9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(10) If a member of a regular or volunteer fire department, *ambulance service,* or rescue squad violates any provisions of subsection *(6)* [~~(5)~~] of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or 189.993, be immediately dismissed from his membership or employment with the fire department, *ambulance service,* or rescue squad and shall be disqualified from being employed by or being a member of any fire department, *ambulance service,* or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, *ambulance service,* rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.

(11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each violation and shall be deposited in the resource recovery road fund.

HB 412, AN ACT relating to motor vehicle operators' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16).

(2) Any person whose operator's license has been suspended, during the period of suspension.

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued.

(4) An habitual drunkard or drug addict.

(5) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property.

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways.

(7) Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision.

(8) Any person who is unable to understand highway warnings or direction signs in the English language.

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination.

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof.

(11) Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths.

(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. *The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.*

Section 2. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than six (6) months. An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). *The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.* The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle or moped, would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than six (6) months. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

(3) The clerk, after determining that the applicant has fully complied with the laws governing the issuance of instruction permits shall, upon the request of the applicant, issue a permanent moped license. Any valid motor vehicle operator license may also be used in the operation of a moped.

Section 3. KRS 186.480 is amended to read as follows:

(1) The state police may examine every unlicensed applicant for an operator's license except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the state police agree to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section.

(2) Any person whose operator's license is denied, suspended or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination. *The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.*

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: HB 406, HB 446.

Health and Welfare: HB 53, HB 639, HB 350, HB 589, HB 661.

Labor and Industry: HCR 66, HJR 78, HB 633, HB 644, HB 653.

The Clerk announced HB 584 and HB 271 have been withdrawn from Consideration by the Committee on Health and Welfare.

Calendar

HB 301, HB 413, HB 431, HB 73, HB 263, HB 449, HB 470 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported SB 21, SB 24, SB 29, HB 35 and HB 158 had been examined and found correctly enrolled. SB 21, SB 24, SB 29, HB 35 and HB 158 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:10 p.m.)

Orders of the Day

SB 98, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to SB 98. Agreed.

Representative Kerr moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to SB 98. Agreed.

Representative Farrow moved that SB 98, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 54, Nays 39: (See February 18, 1986, roll call on SB 98—Appendix A.)

SB 98, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which SB 98, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 209, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to HB 209. Agreed.

Representative Moberly moved that HB 209, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 18, 1986, roll call on HB 209—Appendix A.)

HB 209, by way of Committee Substitute, was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 209, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 286, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved the adoption of the Committee Amendment No. 1 to HB 286. Agreed.

Representative Lyne moved the HB 286, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See February 18, 1986, roll call on HB 286—Appendix A.)

HB 286, as amended, was passed and the title agreed to.

Representative Lyne moved that the vote by which HB 286, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 325 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that HB 325 be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 18, 1986, roll call on HB 325—Appendix A.)

HB 325 was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 325 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 420, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Floor Amendment No. 1 to HB 420. Agreed.

Representative Ford moved that HB 420, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 18, 1986, roll call on HB 420—Appendix A.)

HB 420, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which HB 420, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that HB 471 be passed.

On the roll call the vote was: Yeas 94, Nays 2 (See February 18, 1986, roll call on HB 471—Appendix A.)

HB 471 was passed and the title agreed to.

SB 142 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved that SB 142 be passed.

On the roll call the vote was: Yeas 89, Nays 5. (See February 18, 1986, roll call on SB 142—Appendix A.)

SB 142 was passed and the title agreed to.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Resolutions and Committee Reports. Agreed.

Introduction of Bills and Resolution

HB 677, by Representatives Barrows, Noe, Stumbo, Bruce, Kerr, Gedling, Head, Crupper, Arnold, Blevins, Brinkley, Gray, F. Brown, Lyne, Meyer, Blandford, Morris, Donnermeyer, McBee, T. Jones, Burnette, Thomas, Hancock, R. Jones, Strong, Mann, Cowan, Moberly, Scorsone, Cyrus, White, Rapier, Little, Rose, Cline and McElroy: AN ACT relating to teachers' retirement system and declaring an emergency.

HB 678, by Representatives Hines, Head, Priddy, Scorsone, Nett, Barrows, Clarke, Mann, Yates, Bronger, B. Richardson, Seum, Noe, Moberly, Handy, Bendl, Cowan, Meyer, Rapier, O'Brien, Blevins, Richards, Heleringer and Cyrus: AN ACT relating to investments.

HB 679, by Representative Maggard: AN ACT relating to income tax.

HB 680, by Representative Clarke: AN ACT relating to marital property.

HB 681, by Representatives Head, Brinkley, Stone, Cyrus and Gray: AN ACT relating to the model procurement code.

HB 682, by Representatives Little, Rose and Bennett: AN ACT relating to personal service contracts.

HB 683, by Representatives Little, Rose and Bennett: AN ACT relating to workers' compensation.

HB 684, by Representative Little: AN ACT relating to teachers' retirement.

HB 685, by Representative Pearman: AN ACT relating to motor vehicle titling.

HB 686, by Representative Pearman: AN ACT relating to school bus and church bus passenger safety.

HB 687, by Representative Pearman: AN ACT relating to motor carrier driver qualifications.

HB 688, by Representative Pearman: AN ACT relating to weight limits on designated highways.

HB 689, by Representative Johnson: AN ACT relating to water heaters.

HB 690, by Representatives Richards and Smith: AN ACT relating to continuing education programs and making an appropriation therefor.

HB 691, by Representatives Cyrus, Morris, Donnermeyer, Stone, Brinkley, Gray, Mann, Thomas, Clapp, Bennett, Little, Maggard and Burch: AN ACT proposing an amendment to the Kentucky Constitution relating to a candidate preference tabulation.

HB 692, by Representatives Bruce, Morris, Gedling, Clapp, Holbrook, Brinkley, Smith, Stone, Bronger, Handy, Lyne, Dawahare, Ellington, M. Brown, Johnson, Stewart, Crupper, White, Richards, Yates, Blevins, Cline, F. Brown, Bendl, Seum, Turner, McNutt, Heleringer, Priddy, Williams, McElroy, Holloway, Allen, Noland, J. Harper, L. Clark, Burnette, Riner, Arnold, Caldwell, Hancock, Guenthner, Noe and Todd: AN ACT relating to insurance.

HB 693, by Representatives Yates and Bronger: AN ACT relating to metropolitan sewer districts.

HB 694, by Representative Freibert: AN ACT relating to traffic regulations.

HB 695, by Representatives Bennett and Little: AN ACT relating to the state building code.

HR 82, by Representative Scorsone: A RESOLUTION honoring eight University of Kentucky professors selected to receive Fulbright Fellowship Grants.

HR 83, by Representatives Yates and Bronger: A RESOLUTION in memory of John Robert Weiss.

HR 84, by Representative J. Harper: A RESOLUTION requesting Toyota to use American engineers, architects, contractors and labor in designing and constructing the Georgetown Toyota automobile plant.

HCR 85, by Representatives Blevins, Richards, Moberly, Mann and T. Jones: A CONCURRENT RESOLUTION directing the Council on Higher Education to study the compensation of university faculty.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: HB 46, HB 75, HB 400, HB 416, HB 454, HB 473, HB 502, HB 546, HB 555, HB 592, HR 23, HR 28, SB 13, SB 105, SB 10, HB 626.

Education: HB 662.

Judiciary-Criminal: HB 613.

State Government: HB 608.

Representative Morris moved to reconsider the vote on SB 98.

Representative Morris moved that SB 98 be removed from the table in order to remove the clincher.

On the roll call the vote was yeas 36—Bennett, Brinkley, Bruce, Caldwell, Clarke, Cyrus, Ellington, Ford, Freibert, Gedling, Gregory, K. Harper, Holbrook, Holloway, Johnson, R. Jones, Keith, McBee, McElroy, McNutt, Morris, Napier O'Brien, Pearman, Pritchett, Richards, B. Richardson, Riner, Smith, Stone, Strong, Stumbo, Todd, Turner, Williams, Worthington. Nays 26—Allen, Bendl, Blandford, Bronger, M. Brown, Burch, L. Clark, P. Clark, Cowan, Farrow, Gray, Guenthner, J. Harper, Heleringer, T. Jones, Lyne, Mack, Maggard, Moberly, Noe, Noland, Preston, Rose, Scorsone, Siler, Stewart.

The motion to remove SB 98 from the table was rejected.

Representative Yates moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Yates moved the adoption of HR 83.

HR 83, A RESOLUTION in memory of John Robert Weiss.

WHEREAS, John Robert Weiss, twenty-five-year-old Shively police officer, recently lost his life in the cause of drug enforcement; and

WHEREAS, Officer Weiss was a brave and exemplary young man, an idealist dedicated to the struggle against drug abuse; and

WHEREAS, John Weiss came to America with his mother, Nimet Weiss, in 1969, and was extremely proud of his new country; and

WHEREAS, John Weiss was devoted to his family and friends; and

WHEREAS, it seems especially tragic that one so caring and so dedicated should die for those who value life so little;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House laments the tragic loss of John Robert Weiss and extends its sincere sympathy to his mother, Nimet Weiss.

Section 2. That when the House adjourns this day, Tuesday, February 18, 1986, it does so in memory of John Robert Weiss.

Section 3. That copies of this resolution be sent to Mrs. Nimet Weiss, the mayor of Shively, and the Shively Police Department.

HR 83 was adopted by voice vote.

Representative Harper moved to suspend the rules to act upon a Resolution. Agreed.

Representative Harper moved the adoption of HR 84:

HR 84, A RESOLUTION requesting Toyota to use American engineers, architects, contractors and labor in designing and constructing the Georgetown Toyota automobile plant.

WHEREAS, American workers, engineering firms, architectural firms and contractors are second to none throughout the world; and

WHEREAS, American workers, engineers, architects and contractors are ideally situated in the Commonwealth of Kentucky, allowing Toyota to take advantage of the opportunity to acquire their services without having to look beyond the boundaries of our state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Toyota strive to employ American workers, engineers, architects and contractors whenever possible for the purpose of designing and constructing the Toyota automobile assembly plant to be located in Georgetown, Kentucky.

Section 2. That Toyota afford to its American employes full protection as provided in the intent of the National Labor Relations Act.

Section 3. That a copy of this resolution be forwarded to Toyota's corporate headquarters in Japan and to the Governor of Kentucky.

HR 84 was adopted by voice vote.

Representative Harper moved that a call of the roll be taken to show co-sponsors of HR 84. Agreed.

On the roll call the vote was yeas 56—Allen, Arnold, Bennett, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Ford, Freibert, Gray, Guenthner, Handy, J. Harper, K. Harper, Head, Heleringer, Holbrook, Jensen, Keith, Kerr, Layman, Lile, Little, Lyne, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Napier, Noland, Preston, Priddy, Reinhardt, Riner, Rose, Siler, Stewart, Stone, Strong, Todd, Turner, White, Williams.

Representative Scorsone moved to suspend the rules to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of HR 82:

HR 82, A RESOLUTION honoring eight University of Kentucky professors selected to receive Fulbright Fellowship Grants.

WHEREAS, eight distinguished professors of the University of Kentucky have been selected to receive Fulbright Fellowship grants; and

WHEREAS, Fulbright Fellowship grants are prestigious awards for overseas teaching and research; and

WHEREAS, the latest U. K. recipients of Fulbright awards are Michael R. Baye, Jon R. J. Dunn, Kenneth G. Hirth, Larry Burmeister and Pentti Teraslinna; and

WHEREAS, Michael R. Baye, an assistant professor of economics, is at Erasmus University at Rotterdam, Netherlands, where he is conducting research on spatial economy; and

WHEREAS, John R. J. Dunn, a part-time professor in the U. K. Art Department, left in December for Guatamala City, Guatamala, where he is lecturing on communications and journalism at Rafael Landivar University; and

WHEREAS, Kenneth G. Hirth, an associate professor of anthropology, has been studying pre-Columbian jade artifacts at the Honduran Institute of History and Anthropology at Tegucigalpa, Honduras; and

WHEREAS, Larry Burmeister, an assistant professor of rural sociology in U. K.'s College of Agriculture, will travel to Pusan National University in Korea this month as a lecturer-researcher; and

WHEREAS, Pentti Teraslinna, a professor of health, physical education and recreation, will undertake research at the Institute of Occupational Health in Helsinki, Finland, focusing on the anaerobic stress component of manual work tasks; and

WHEREAS, University of Kentucky faculty who were previously announced as Fulbright fellows for this academic year were Thomas R. Leinbach, Gerald A. Rosenthal and Michael A. Webb; and

WHEREAS, Thomas R. Leinbach, a professor of geography, is conducting geographical research at the national University of Singapore; and

WHEREAS, Gerald A. Rosenthal, a professor of biological sciences, has been studying plant-insect interaction at the Universite Louis Pasteur in Strasbourg, France; and

WHEREAS, Michael A. Webb, an assistant professor of economics, has done research on export promotion and diversity in Costa Rica;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly honors and commends Fulbright Fellows Michael R. Baye, Jon R. J. Dunn, Kenneth G. Hirth, Larry Burmeister, Pentti Teraslinna, Thomas R. Leinbach, Gerald A. Rosenthal and Michael A. Webb.

Section 2. That the members of this honorable body hail these exceptional academicians to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to University of Kentucky President Otis Singletary and to each of the honorable Fulbright Fellows.

HR 82 was adopted by voice vote.

Motions, Petitions, and Communications (Continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 61, by Representative Barrows:

Amend printed copy of HB 61:

On page 17, line 14, after "All" by deleting "*opposed*";

On page 20, line 5, after "any" by inserting the following:

"*pre-election*"

Floor Amendment No. 1 to HB 470, by Representative Cowan:

Amend printed copy of HB 470:

On page 1, line 8, following "*officer*" to add the following "*while responding to, for the duration of, and while returning from the matter for which the request was made.*"

Floor Title Amendment to HCR 51, by Representative Cowan:

Amend printed copy of HCR 51:

By changing the title to: "A CONCURRENT RESOLUTION honoring the Lexington Children's Theatre and Stage One, the Louisville Children's Theatre, and designating them the official state children's theatres."

Floor Amendment No. 1 to HCR 51, by Representative Cowan:

Amend printed copy of HCR 51:

On page 1, at the end of the final "WHEREAS" clause, by adding "and" after "years;"; and

On page 1, between the final "WHEREAS" clause and the words "NOW, THEREFORE," by inserting the following:

"WHEREAS, the Louisville Children's Theatre was founded in 1946; and

WHEREAS, under the inspired leadership of producer/director Moses Goldberg, the children's theatre, now Stage One, has broadened its scope and is now truly a regional theatre, serving children of all of Kentucky; and

WHEREAS, Stage One is one of only three children's theatres in the nation which are professional equity companies; and

WHEREAS, Moses Goldberg, now in his ninth year with Stage One, is the current vice-chairman of the International Children's Theatre Association; and

WHEREAS, Stage One's mini-show program travels to schools within an eighty-mile radius of Louisville and its full-fledged tour performs in cities and towns throughout Kentucky; and

WHEREAS, students commonly travel as far as one hundred miles to attend Stage One performances at the Kentucky Center for the Arts; and

WHEREAS, it is anticipated that Stage One will play to over 100,000 children and adults this year; and

WHEREAS, its three-year program, "Imagination Celebration," a Kentucky youth festival at the Kentucky

Center for the Arts, is currently pursuing its goal of performing for school children of every one of Kentucky's counties;"; and

On page 1, line 1, after "Theatre" by inserting "and Stage One, the Louisville Children's Theatre,"; and

On page 1, line 2, by changing "theatre" to "theatres"; and

On page 2, line 3, after "Theatre" and before the period, by adding "and to Mr. Moses Goldberg, producer/director of Stage One".

Floor Amendment No. 1 to HB 32, by Representative J. Harper:

Amend printed copy of HB 32:

on page 1, line 5, before the word "*shall*" to insert the following: "*and every motor truck, semitrailer, truck tractor and trailer*".

on page 1, line 5, after the word "*while*" to delete the word "*operating*" and insert in lieu thereof the words "*being operated*".

Floor Amendment No. 1 to HB 481, by Representative Gray:

Amend printed copy of HB 481:

By inserting on page 4 after line 20

"SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Employes may participate in labor management relations regarding wages, hours and other terms and conditions of employment, in accordance with regulations promulgated by the secretary of the labor cabinet."

And on page 4, line 21, by changing "SECTION 4." to "SECTION 5."

Representative Arnold moved that he be recorded as changing his vote from "Yea" to "Abstain" on HB 405. Agreed.

Representative B. Richardson moved that he be recorded as voting "Nay" on SB 98. Agreed.

Representative Guenthner moved that he be recorded as voting "Yea" on HB 405, HB 466, HB 65 and "Nay" on HB 216. Agreed.

The following meetings were announced:

Education: Wednesday, February 19, 1986 on adjournment.

Judiciary-Criminal: Thursday, February 20, 1986, Room 104 on adjournment.

Mountain Caucus: Thursday, February 20, 1986 on adjournment. Majority Floor Leader's Office.

Budget Subcommittee on Natural Resources: Wednesday, February 19, 1986, at 5:00 p.m., (Postponed at 12:00 noon).

Cities: Wednesday, February 19, 1986, 8:00 a.m.

Counties: Wednesday, February 19, 1986, 12:00 noon, Room 104.

Labor: Room 105, Wednesday, February 19, 1986 on adjournment.

Rules: On adjournment in State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. Wednesday, February 19, 1986.

On the roll call the vote was yeas 79—Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Head, Heleringer, Hines, Holloway, Jensen, Johnson, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Stone, Strong, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 19, 1986

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Billy G. Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Heleringer.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 18, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 696, by Representatives J. Harper and Pearman: AN ACT relating to motor fuels taxation.

HB 697, by Representative Riner: AN ACT relating to pharmacies.

HB 698, by Representative Cowan: AN ACT relating to corrections.

HB 699, by Representatives T. Jones, Barrows, Moberly, Hancock, Noland, Scorsone and Arnold: AN ACT relating to the Kentucky River Authority.

HB 700, by Representatives P. Richardson, Holbrook, Deskins, Overstreet, Meyer and Bruce: AN ACT relating to investments by fiduciaries.

HB 701, by Representative P. Richardson: AN ACT relating to health care for the medically indigent.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 673, HB 676, HB 679, SB 182, SB 193.

Banking and Insurance: HB 692.

Business Organizations and Professions: SB 208.

Cities: HB 693, SB 220.

Counties and Special Districts: SB 233.

Education: HB 675, HB 677, HB 684, HB 690, HCR 85.

Health and Welfare: HB 689.

Judiciary-Civil: HB 680.

Labor and Industry: HB 683, HB 695.

Natural Resources and Environment: HB 674, SB 225, SJR 54.

State Government: HB 681, HB 682, HB 691, HB 678.

Transportation: HB 685, HB 686, HB 687, HB 688, HB 694.

Report of Committees

The Committee on Rules reported HB 73, HB 263, HB 301, HB 413, HB 431, HB 449, HB 470 and HB 544 have been posted for passage in Orders of the Day, February 20, 1986.

The Committee on Rules reported HB 448 has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Agriculture and Small Business reported HB 144 with Committee Substitute attached thereto, HB 401 with Committee Substitute attached thereto, HB 665, HCR 20 and HR 69 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 144, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.210 is amended to read as follows:

(1) The *commissioner of agriculture* [~~board~~] shall appoint the state veterinarian.

(2) The state veterinarian shall be a resident of this state and a licensed graduate veterinarian who has practiced veterinary medicine continuously in this state for five (5) years prior to his appointment.

(3) [~~The state veterinarian shall serve for a term of four (4) years and until his successor has been appointed and has qualified.~~

~~(4)~~] He shall *serve at the pleasure of the commissioner of agriculture* [~~be subject to removal from office by the board at any time for cause~~].

(4)[~~(5)~~] The office of the state veterinarian shall be in the department of agriculture at the state capital.

Section 2. KRS 257.240 is amended to read as follows:

(1) Upon the recommendation of the state veterinarian, the *commissioner of agriculture* [~~board~~] may within *his* [~~its~~] discretion appoint a deputy state veterinarian.

(2) [~~He shall hold office for a term of four (4) years and until his successor has been elected and qualified.~~] He shall *serve at the pleasure of the commissioner of agriculture* [~~be subject to removal from office by the board at any time for cause~~].

(3) He shall be a resident of this state, and a licensed graduate veterinarian who has practiced veterinary medicine continuously within this state for a period of three (3) years prior to his appointment.

The Committee Substitute to HB 144 is as follows:

HB 144, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.210 is amended to read as follows:

(1) The *commissioner of agriculture* [~~board~~] shall appoint the state veterinarian.

(2) The state veterinarian shall be a resident of this state and a licensed graduate veterinarian who has practiced veterinary medicine continuously in this state for five (5) years prior to his appointment.

(3) The state veterinarian shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(4) He shall be subject to removal from office by the board at any time for cause.

(5) The office of the state veterinarian shall be in the department of agriculture at the state capital.

HB 401, AN ACT relating to soybeans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.550 is amended to read as follows:

With respect to any referendum conducted under the provisions of KRS 247.510 to 247.595, and 247.994, the commissioner of agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by said producers, and the general purposes to which said amount so collected shall be applied. No annual assessment levied under the provisions of any referendum shall exceed *one (1)* [~~one-half~~] cent [~~(1/2 cent)~~] per bushel on the soybeans marketed in the state during a marketing year by any producer included in the group to which such referendum was submitted or by any person subsequently becoming a new producer in the area in which such referendum was held.

Section 2. KRS 247.555 is amended to read as follows:

The hours, voting places, rules and regulations and the area within which the referendum will be conducted shall be established and determined by the commissioner of agriculture; the said referendum date, area, hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the commissioner through the medium of the public press in the commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by such referendum. Such notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed *one (1)* [~~one-half~~] cent [~~(1/2 cent)~~] per bushel, and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of KRS 247.510 to 247.595, and 247.994.

The Committee Substitute to HB 401 is as follows:

HB 401, AN ACT relating to soybeans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.515 is amended to read as follows:

As used in *this Act* [~~KRS 247.510 to 247.595, and 247.994~~] unless the context otherwise requires:

(1) "Commissioner" means the commissioner of agriculture;

(2) "Board" means the state board of agriculture;

(3) "Producer" means every person who produces soybeans and thereafter causes the same to be marketed;

(4) "New producer" means a producer who was not engaged in the business of producing soybeans at the time a referendum was conducted in accordance with the provisions of *this Act* [~~KRS 247.510 to 247.595, and 247.994~~];

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity; and

(6) "Marketing year" means from July 1 to June 30 of the following year.

(7) "Purchaser" means any person, public or private corporation, federal commodity credit corporation,

association, or partnership buying, accepting for shipment, or otherwise acquiring the property in or to soybeans from a producer, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of such soybeans is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim.

Section 2. KRS 247.520 is amended to read as follows:

No association meeting or activity undertaken in pursuance of the provisions of *this Act* [~~KRS 247.510 to 247.595, and 247.994~~] and intended to benefit all of the producers, handlers, and processors of soybeans shall be deemed or considered illegal or in restraint of trade.

Section 3. KRS 247.530 is amended to read as follows:

(1) *In the event that a valid petition is filed with the Kentucky soybean association and certified by the commissioner of agriculture,* [~~Any existing association which is fairly representative of the soybean producers of Kentucky, such as~~] the Kentucky soybean association *shall* [~~, may at any time after the enactment of KRS 247.510 to 247.595, and 247.994~~] make application to the state board of agriculture on forms prescribed by *the* [~~such~~] board [~~for certification~~] and *approved* [~~approval~~] for the purpose of conducting a referendum among the producers of soybeans *pursuant to this Act.* [~~upon the question of levying an assessment under the provisions of KRS 247.510 to 247.595, and 247.994, collecting and utilizing the same for the purpose stated in such referendum. Such application forms shall include, but not be limited to, the following:~~

~~(a) Applicant's name;~~

~~(b) Applicant's address;~~

~~(c) Date;~~

~~(d) Program to be undertaken for producers;~~

~~(e) Brief statement of how the program is to be implemented;~~

~~(f) Referendum to be conducted on a statewide or area basis;~~

~~(g) Proposed effective date of the program;~~

~~(h) Geographic area, by counties, of producers to be affected by the program; and~~

~~(i) Signature of the applicant.~~]

(2) Upon receipt of such application, the commissioner shall publish such application through the medium of the public press in the state within ten (10) days of receipt thereof.

Section 4. KRS 247.545 is amended to read as follows:

The manner, conduct and management of any referendum held under the provisions of *this Act* [~~KRS 247.510 to 247.595, and 247.994~~], shall be under the supervision and direction of the commissioner of agriculture, and any and all expenses in connection therewith shall be borne by the association conducting the referendum.

SECTION 5. A NEW SECTION OF KRS 247.545 TO KRS 247.555 IS CREATED TO READ AS FOLLOWS:

There is hereby imposed and levied an assessment at the rate of one cent (1 cent) per bushel on all soybeans marketed within the Commonwealth, such assessment to be deducted from the amount paid the producer at the first point of sale. The question of the levy of the one cent (1 cent) per bushel assessment on soybeans, provided for herein, may be referred to a vote of the soybean producers of the state by the filing of petitions with the Kentucky soybean association containing signatures of Kentucky soybean producers equal in number to twenty percent (20%) of all soybean producers in the state as recorded in the latest U. S. census of agriculture. If such petitions are filed and at the referendum election a majority of the Kentucky soybean producers voting on the *question vote against the levy of the one cent (1 cent) per bushel on soybeans, the assessment shall not thereafter be levied. Only those soybean producers who produced soybeans in Kentucky in the crop year immediately preceding the referendum shall be eligible to vote in the election.*

Section 6. KRS 247.555 is amended to read as follows:

The hours, voting places, rules and regulations *for* [~~and the area within which~~] the referendum [~~will be conducted~~] shall be established and determined by the commissioner of agriculture; the said referendum date, [~~area,~~] hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the commissioner through the medium of the public press in the Commonwealth [~~of Kentucky~~] at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by such referendum. [~~Such notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed one-half cent (1/2 cent) per bushel, and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of KRS 247.510 to 247.595, and 247.994.~~]

Section 7. KRS 247.570 is amended to read as follows:

[~~In the event a majority of the eligible producers in such referendum who vote therein shall vote in favor of the assessment, then the commissioner shall notify forthwith, by certified mail, all persons engaged in the business of purchasing soybeans in this state, that on and after the date specified in such letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of such soybeans.~~] The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such soybeans are sold to the purchaser, be remitted by such purchaser to the *fund utilization committee* [~~duly certified association which conducted the referendum~~]. The books and records of all such purchasers of soybeans shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours.

SECTION 8. A NEW SECTION OF KRS 247.575 TO 247.580 IS CREATED TO READ AS FOLLOWS:

The fund utilization committee shall enter into an agreement with the federal commodity credit corporation to collect the specified assessment on all soybeans pledged as collateral for a commodity credit corporation price support loan or purchase by the commodity credit corporation under its loan or puchase programs.

Section 9. KRS 247.585 is amended to read as follows:

[~~In the event the referendum is carried in the affirmative and the assessment is levied and collected as provided,~~] Any producer upon and against whom such assessment shall have been levied and collected under the provisions of *this Act* [~~KRS 247.510 to 247.595, and 247.994~~], if dissatisfied with said assessment and the result thereof, shall have the right to demand of and receive from the treasurer of said certified association a refund of such assessment so collected from such producer; provided, such demand for refund is made in writing within thirty (30) days from the date on which said assessment is collected from such producer.

Section 10. KRS 247.595 is amended to read as follows:

Whenever in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of *this Act* [~~KRS 247.510 to 247.590~~], the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining such act or acts or practices, and obtain a restraining order and preliminary injunction against such purchaser.

Section 11. KRS 247.994 is amended to read as follows:

(1) Any purchaser of soybeans who violates, or fails or refuses to comply with the provisions of *this Act* [~~KRS 247.510 to 247.595~~], shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing or refusing to comply with the provisions of *this Act* [~~KRS 247.510 to 247.595~~] shall constitute a separate offense.

(2) Any operator of a livestock market, meat packing establishment, or slaughter establishment who violates or fails or refuses to comply with the provisions of KRS 247.610 to 247.685 shall upon conviction be fined not

less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of the violation, or failing, or refusing to comply with the provisions of KRS 247.610 to 247.685 shall constitute a separate offense.

(3) Any operator of a tobacco warehouse, tobacco manufacturing establishment, or tobacco dealer who violates or fails or refuses to comply with the provisions of KRS 247.710 to 247.785 shall upon conviction be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each failure to withhold or refusal to comply with the provisions of KRS 247.710 to 247.785 shall constitute a separate offense.

(4) Any egg handler who violates, or fails, or refuses to comply with the provisions of KRS 247.850 to 247.865 shall, upon conviction, be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each offense. Each day of violating, or failing, or refusing to comply with the provisions of KRS 247.850 to 247.865 shall constitute a separate offense.

Section 12. The following KRS sections are repealed:

247.525 Producers' referendum levying assessment.

247.535 Certified association authorized to hold referendum—Scope.

247.540 Referendum on area or statewide basis—Persons eligible to participate.

247.550 Commissioner to determine date, hours, polling places, and details of assessment—Limits.

247.565 Effect of affirmative vote.

247.590 Annual review of program—Referendum required when—Termination.

HB 665, AN ACT relating to revenue and taxation and related activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly in enacting this Act to provide financial assistance to Kentucky's tobacco growers responsible for maintaining the federal no net cost tobacco program through the establishment of the no net cost tobacco fund, and through an income tax credit, which shall be provided in order to reimburse tobacco growers for payment of the no net cost assessment fees.

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the treasury of the Commonwealth of Kentucky a fund entitled "The No Net Cost Tobacco Fund." The fund may receive state appropriations, gifts, grants and federal funds and shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet. Any unallotted or unencumbered balances in the fund shall be invested in United States government securities maturing not later than one (1) year from the date of investment, and the income earned from such investment shall be credited to the fund.

(2) The no net cost tobacco fund shall be used to pay for the cost of the income tax credit provided in Section 3 of this Act to tobacco growers for reimbursement of their no net cost tobacco assessment fees. As used in this Act, "no net cost assessment fees" shall mean the contributions, made by tobacco growers to the Commodity Credit Corporation as required by Public Law 97-812, the No Net Cost Tobacco Program Act of 1982.

(3) The secretary of the revenue cabinet, by August 1, 1986 and by June 1 of each subsequent year, shall certify to the secretary of the finance and administration cabinet an estimate of the amount of income tax credit attributable to the provisions of Section 3 of this Act which will be granted during the upcoming fiscal year. Effective with the quarter beginning July 1, 1986, the secretary of the finance cabinet shall cause to be transferred from the no net cost tobacco fund to the general fund, an amount equal to one-fourth (1/4) of the amount of the credit estimated by the secretary of the revenue cabinet. Such transfers shall be made quarterly,

except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due under the provisions of subsection (2) of this section.

(4) In the event that the proceeds to the no net cost tobacco fund are insufficient to provide for the quarterly transfers provided for in subsection (3) of this section, such transfers shall be made on a prorated basis.

Section 3. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) *of this section* to net income and subtracting allowable tax credits provided in subsection (3) *of this section.*

(2) The following rates shall be applied to net income:

(a) Two percent (2%) of the amount of net income not exceeding three thousand dollars ($3,000);

(b) Three percent (3%) of the amount of net income in excess of three thousand dollars ($3,000) but not in excess of four thousand dollars ($4,000);

(c) Four percent (4%) of the amount of net income in excess of four thousand dollars ($4,000) but not in excess of five thousand dollars ($5,000);

(d) Five percent (5%) of the amount of net income in excess of five thousand dollars ($5,000) but not in excess of eight thousand dollars ($8,000);

(e) Six percent (6%) of the amount of net income in excess of eight thousand dollars ($8,000).

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) *of this section* to arrive at the annual tax:

(a) Twenty dollars ($20.00) for an unmarried individual;

(b) Twenty dollars ($20.00) for a married individual filing a separate return and an additional twenty dollars ($20.00) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars ($40.00) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in section 153 of the Internal Revenue Code;

(c) Twenty dollars ($20.00) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;

(d) An additional forty dollars ($40.00) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

(e) An additional forty dollars ($40.00) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(f) An additional forty dollars ($40.00) credit if the taxpayer is blind at the close of the taxable year;

(g) An additional forty dollars ($40.00) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in *paragraphs* (a) and (b) of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to his tax credit(s), excluding credits for a spouse and dependents, or

2. Prorating his tax credit(s) plus the tax credits for his spouse and dependents by the ratio of his Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in *paragraphs* (a) and (b) of that subsection, to the total joint federal adjusted gross income of the taxpayer and his spouse;

(i) In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be that portion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (a) and (b) of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code;

(j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars ($2.00);

(k) In the case of an estate, the allowable tax credit shall be twenty dollars ($20.00);

(l) An additional twenty dollars ($20.00) credit if the taxpayer is a member of the Kentucky national guard at the close of the taxable year*; and*

(m) In the case where the individual is in the business of growing tobacco, a credit in an amount equal to a percentage of the no net cost assessment fees paid by the grower in a taxable year to the commodity credit corporation in accordance with the provisions of Public Law 97-812, the No Net Cost Tobacco Program Act of 1982. .he proportion of the assessment fees covered by the credit shall be determined annually by a committee composed of the secretaries of the revenue and finance cabinets, and the commissioner of agriculture. If the allowable amount of such credit exceeds the income taxes otherwise due on claimant's income for the taxable year or for any prior taxable year, or if there are no Kentucky income taxes due on claimant's income for the taxable year or for any prior taxable year, the amount of the credit not used as an offset against income taxes, after certification by the secretary, shall be paid to claimant from balances retained by the state treasurer for that purpose. No interest shall be allowed on any payment made to a claimant pursuant to this Act.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

(6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing such residence and as prescribed in subsection (1) of this section following the establishment of such residence.

(7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that he is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when he is a nonresident.

HCR 20, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, loss of the program would cause failure of many farms and businesses, decreases in land values, the default of loans and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems which threaten the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping resolve those problems; and

WHEREAS, the Task Force has provided leadership and unified the tobacco states in efforts to resolve the tobacco program's problems and the state must continue that leadership role; and

WHEREAS, the program remains in jeopardy because of imports, reductions in farmers' quotas, losses in market shares in the United States and foreign markets, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco program.

HR 69, A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

WHEREAS, the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station will receive about $594,000 less in federal funds each year because of the federal Gramm-Rudman-Hollings law, and the proposed state budget for the 1986-87 fiscal year does not provide about $591,000 needed to give the same salary increases to employees paid with federal funds as employees paid with state funds, resulting in a total annual loss of about $1,300,000; and

WHEREAS, the loss of $1,300,000 from their annual budgets will mean a reduction of 65 county agents; and

WHEREAS, the University of Kentucky Cooperative Extension Service has existed since 1910 and the Agricultural Experiment Station since 1885; and

WHEREAS, the Cooperative Extension Service and the Agricultural Experiment Station are invaluable to Kentucky's agriculture; and

WHEREAS, these two agencies provide the major source of delivery of technology to Kentucky's farmers; and

WHEREAS, the economic plight of Kentucky's farmers has resulted in increased farm foreclosures; and

WHEREAS, the social fabric of rural Kentuckians is under stress because of adverse economic conditions; and

WHEREAS, the continued vitality of the Cooperative Extension Service and Agricultural Experiment Station is required to help Kentucky farmers in their time of great need;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the annual budget for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station be restored in the amount of $1,300,000 from the General Fund to enable them to continue the vital services they provide to Kentucky agriculture and rural Kentucky; that this money appear as a line item in the Executive Budget; and that the University of Kentucky President, Otis Singletary, allocate this money to the College of Agriculture Cooperative Extension Service and the Agricultural Experiment Station.

The Committee on Appropriations and Revenue reported HB 150 with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported HB 464, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 464, AN ACT relating to occupational license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county [~~having a population of 30,000 or more,~~] may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one per cent (1%) of (a) salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county;, and (b) the net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county; and (c) the net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county. In order to reduce administrative costs and minimize paperwork for employers, employes and businesses, the fiscal court may provide (a) for an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided above on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county and (b) for an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided above on net profits of businesses, trades, professions or occupations from activities conducted in the county. Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

(3) [~~The fiscal court imposing license fees pursuant to subsection (1) of this section shall submit the question of the license fee to the voters of the county at the next general election. If the license fee is rejected by a majority of those voting in the election, the license fee shall be repealed effective December 31 of the same year.~~

~~(4)~~] Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may upon agreement between the county and the city, credit their city license fee against their county license fee.

The Committee Amendment No. 1 to HB 464 is as follows:

Amend printed copy of HB 464:

Page 1, lines 2 and 3, by removing the brackets ([]) and strikes (/) appearing on lines 2 and 3; and,

Page 3, after line 12, by adding the following:

"*(4) The provisions of subsection 3 of this section notwithstanding, effective with license fees imposed under the provisions of subsection 1 of this section on or after the effective date of this act, persons who pay a county* *license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee".*

The Committee on Cities reported HB 120 with Committee Substitute attached thereto, HB 266 with Committee Substitute attached thereto, HB 451 and HB 557 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 120, AN ACT relating to local governments.

WHEREAS, it is recognized by the General Assembly that local governments in this Commonwealth provide the grass-roots services and functions which are indispensable to the health, safety and welfare of the citizens of this Commonwealth; and

WHEREAS, the Kentucky Supreme Court in a recent decision, *Gas Services Co., Inc. v. City of London*, destabilized the common law doctrine of municipal liability creating anxiety among municipal officials that larger judgments will be obtained against local governments, that insurance costs will accordingly increase and ultimately that there will be an increased reluctance on the part of municipal officials to provide needed services; and

WHEREAS, the Supreme Court acknowledged as well the consequences of unlimited liability upon local governments and strongly urged the General Assembly to enact a municipal tort claims act; and

WHEREAS, county governments, even though currently immune under the Common Law, are also becoming increasingly concerned about the liability of county officers and employes; and

WHEREAS, the General Assembly has considered the problems engendered by increased local government tort liability and determined that a need exists for legislation to protect the limited resources of local government and their employes so that the provision of needed services will not be endangered, while preserving the right of citizens to have recourse for injuries or damages caused by local governments;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 65A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action; and

(2) "Employe" means any elected or appointed officer of a local government, or any paid or unpaid employe or agent of a local government; and

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court and special districts and special taxing districts created or controlled by local governments.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Every action in tort against any local government in this Commonwealth or employe for death, personal injury or property damage proximately caused by:

(1) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(2) Any act or omission of an employe, while acting within the scope of his employment or duties; or

(3) Any act or omission of a person other than an employe for which the local government is or may be liable, shall be subject to the provisions of this Act. Except as otherwise specifically provided herein, all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of this Act shall in any way be construed to expand the existing common law concerning municipal tort liability nor eliminate or abrogate the defense of governmental immunity for county governments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) The amount of damages recoverable against a local government or an employe for death, personal injury or property damage arising out of a single accident or occurrence, or sequence of accidents or occurrences, shall not exceed the lesser of:

(a) The total damages recoverable by plaintiff, reduced by the percentage of fault including contributory fault, attributed by the trier of fact to other parties, if any; or

(b) The sum of three hundred thousand dollars ($300,000), provided that the aggregate liability of a local government for a single accident or occurrence, or sequence of accidents or occurrences, shall not exceed the sum of one million dollars ($1,000,000) to be apportioned equitably among all plaintiffs.

(2) A local government shall not be liable for punitive damages, or for damages for non-economic losses, including conscious pain and suffering, emotional distress, grief, loss of consortium and loss of uncompensated services.

(3) The prevailing party in any action brought under this Act may petition the court to be awarded reasonable attorney fees to be paid by the losing party. The trial court shall award attorney fees at the time and in the manner provided for fixing costs in civil actions. A successful plaintiff may receive appropriate and reasonable attorney fees at the discretion of the trial court, except that such fees shall not exceed the amount of damages awarded the plaintiff and in no case shall attorney fees together with total damages awarded exceed the limitations on liability established by this section. If a local government successfully defends an action brought under this Act, it may be awarded attorney fees on a showing that the plaintiff was guilty of bad faith in the commencement, conduct or maintenance of the action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Notwithstanding Section 2 of this Act, a local government or an employe shall not be liable for injuries or losses resulting from:

(1) Any claim by an employe of the local government which is covered by the Kentucky workers' compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judgment or discretion vested in the local government, including:

(a) The adoption or failure to adopt an ordinance, resolution, order or rule;

(b) The failure to enforce a law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources; or

(e) Failure to make an inspection.

Nothing contained in this subsection shall be construed to hold a local government not liable for negligence arising out of acts or omissions of its employes in carrying out their ministerial duties.

(4) Any claim resulting from damage, destruction or removal of real or personal property by any riotous or tumultuous assemblage of people, unless the plaintiff proves that the local government authorities had notice or good reason to believe that a riot or tumultuous assemblage was about to take place in time to prevent the destruction, either by their own force or by the aid of the citizens of the local government. No person may maintain an action under this subsection if he has unlawfully contributed by word or deed toward exciting or inflaming the tumult or riot, or if he failed to do what he reasonably could toward preventing, allaying or suppressing it;

(5) Any claim against a city or urban-county government growing out of any defect in the condition of any bridge, street, sidewalk, alley or other public thoroughfare, unless notice has been given to the mayor, clerk of the city or urban-county government or clerk of the board of aldermen in the manner provided for the service of notice in actions in the Rules of Civil Procedure. This notice shall be filed within ninety (90) days of the occurrence for which damage is claimed, stating the time of and place where the injury was received and the character and circumstances of the injury, and that the person injured will claim damages therefor from the city or urban county;

(6) Any claim arising from the operation of aircraft into or out of an airport unless written notice is given to such local government within seven (7) days of the time within which each such operation occurred. Such notice shall state:

(a) The location of the property affected;

(b) The approximate time such operation occurred; and

(c) If known, the type of aircraft and general direction of its flight.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of this Act, the court in accordance with subsection (2) of this section may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment upon becoming due under the terms of the judgment shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the tax interest rate as provided in KRS 131.183. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments to be made or the interval between payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payments only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

If the legislative body of a local government against whom a judgment has been entered or a settlement made for a tort claim covered by this Act determines that current revenues of the local government are insufficient to pay the judgment or settlement, or the installment due pursuant to Section 5 of this Act, it may levy a special tax for the purpose of paying such judgment or settlement. Such levy may include any tax permitted by Section 181 of the Kentucky constitution. An ad valorem tax levied pursuant to this section shall not be considered for purposes of calculating either the maximum tax rate or the compensating tax rate in accordance with KRS 132.027. Any tax levied for the purpose of paying a judgment or settlement shall be used solely for such purpose.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) A local government shall provide for the defense of any employe in any action in tort arising out of an act or omission occurring within the scope of his employment. The local government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (2) of this section.

(2) A local government may refuse to pay a judgment or settlement in any action against an employe, or if a local government pays any claim or judgment against any employe pursuant to subsection (1) of this section, it may recover from such employe the amount of such payment and the costs to defend if:

(a) The employe acted or failed to act because of fraud, malice or corruption;

(b) The action was outside the actual or apparent scope of his employment; or

(c) The employe willfully failed or refused to assist the defense of the cause of action in good faith.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

This Act shall apply to all actions in tort in which money damages have not been adjudged as of the effective date of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more local governments may enter into an agreement to pool their financial and administrative resources for the purposes of providing the parties to the agreement risk management, insurance or self-insurance for any liability risks to which local governments may be exposed. All such agreements shall be made pursuant to KRS 65.230 to 65.260, except that the provisions of KRS 65.260(2) shall not apply to any agreement entered into under this section. Additional local governments may be made parties to an agreement under this section under such terms as the agreement may provide.

(2) In addition to those items included in any such agreement pursuant to KRS 65.250, the agreement may specify: the nature and scope of insurance coverages to be provided; the methods by which coverages are to be extended, contributions levied and paid, claims administered and defended against; the procedures by which financial reserves shall be established and maintained; and, any other provisions necessary for proper administration of the pooled resources.

(3) Such agreements may provide for the pooling of losses so that any or all of the funds contributed by a participating local government may be used to pay claims against or with respect to any of the other participating local governments.

(4) No entity established by an agreement under this section shall be considered an "insurer" as defined by KRS 304.1-040 or an assessment or cooperative insurance company as defined by KRS Chapter 299. Provided, however, that there shall be maintained in any fund or pool created pursuant to this section, an amount of reserve funds as is deemed adequate by the department of insurance. The department of insurance is authorized to charge reasonable fees to cover expenses incurred in the course of investigations and audits conducted for the purpose of making this determination and is authorized to promulgate such rules and regulations necessary to accomplish the purposes of this section.

Section 10. The following KRS sections are repealed:

411.100 Liability of city for property damaged by mob.

411.110 Action against city for injury from defect in thoroughfare—Service of notice.

411.115 Notice of action against governmental unit for damages from use of airport required—Contents.

The Committee Substitute to HB 120 is as follows:

HB 120, AN ACT relating to local governments.

WHEREAS, it is recognized by the General Assembly that local governments in this Commonwealth provide the grass-roots services and functions which are indispensable to the health, safety and welfare of the citizens of this Commonwealth; and

WHEREAS, the Kentucky Supreme Court in a recent decision, *Gas Services Co., Inc. v. City of London*, destabilized the common law doctrine of municipal liability creating anxiety among municipal officials that larger judgments will be obtained against local governments, that insurance costs will accordingly increase and ultimately that there will be an increased reluctance on the part of municipal officials to provide needed services; and

WHEREAS, the Supreme Court acknowledged as well the consequences of unlimited liability upon local governments and strongly urged the General Assembly to enact a municipal tort claims act; and

WHEREAS, county governments, even though currently immune under the Common Law, are also becoming increasingly concerned about the liability of county officers and employes; and

WHEREAS, the General Assembly has considered the problems engendered by increased local government tort liability and determined that a need exists for legislation to protect the limited resources of local government and their employes so that the provision of needed services will not be endangered, while preserving the right of citizens to have recourse for injuries or damages caused by local governments;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 65A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action; and

(2) "Employe" means any elected or appointed officer of a local government, or any paid or unpaid employe or agent of a local government, provided that no independent contractor nor employe nor agent of an independent contractor shall be deemed to be an employe of a local government; and

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court, any special district or special taxing district created or controlled by a local government or any utility solely owned by a local government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Every action in tort against any local government in this Commonwealth for death, personal injury or property damage proximately caused by:

(1) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(2) Any act or omission of an employe, while acting within the scope of his employment or duties; or

(3) Any act or omission of a person other than an employe for which the local government is or may be liable, shall be subject to the provisions of this Act. Except as otherwise specifically provided herein, all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of this Act shall in any way be construed to expand the existing common law concerning municipal tort liability as of the effective date of this Act nor eliminate or abrogate the defense of governmental immunity for county governments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) The amount of damages recoverable against a local government for death, personal injury or property damage arising out of a single accident or occurrence, or sequence of accidents or occurrences, shall not exceed the total damages recoverable by plaintiff, reduced by the percentage of fault including contributory fault, attributed by the trier of fact to other parties, if any.

(2) A local government shall not be liable for punitive damages, or for damages for non-economic losses, including conscious pain and suffering, emotional distress, grief, loss of consortium and loss of uncompensated services.

(3) The prevailing party in any action brought under this Act may petition the court to be awarded reasonable attorney fees to be paid by the losing party. The trial court shall award attorney fees at the time and in the manner provided for fixing costs in civil actions. A successful plaintiff may receive appropriate and reasonable attorney fees at the discretion of the trial court, except that such fees shall not exceed the amount of damages awarded the plaintiff and in no case shall attorney fees together with total damages awarded exceed the limitations on liability established by this section. If a local government successfully defends an action brought under this Act, it may be awarded attorney fees on a showing that the plaintiff was guilty of bad faith in the commencement, conduct or maintenance of the action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

No action in tort subject to the provisions of this Act, except for actions pursuant to Section 5(5), shall be maintainable against a local government unless notice has been given to the mayor of a city or urban-county government, the county judge/executive of a county, or the chairman of the governing body or chief executive officer of a special district, in the manner provided for the service of notice in actions in the Rules of Civil Procedure, within one hundred and eighty (180) days of the occurrence which gives rise to the claimed action in tort. Such notice shall state the time and place of the occurrence and the character and circumstances of the injury or damages sustained.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Notwithstanding Section 2 of this Act, a local government shall not be liable for injuries or losses resulting from:

(1) Any claim by an employe of the local government which is covered by the Kentucky workers' compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judgment or discretion vested in the local government, including:

(a) The adoption or failure to adopt any ordinance, resolution, order, regulation, or rule;

(b) The failure to enforce any law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources; or

(e) Failure to make an inspection.

Nothing contained in this subsection shall be construed to hold a local government not liable for negligence arising out of acts or omissions of its employes in carrying out their ministerial duties.

(4) Any claim resulting from damage, destruction or removal of real or personal property by any riotous or tumultuous assemblage of people, unless the plaintiff proves that the local government authorities had notice or good reason to believe that a riot or tumultuous assemblage was about to take place in time to prevent the destruction, either by their own force or by the aid of the citizens of the local government. No person may maintain an action under this subsection if he has unlawfully contributed by word or deed toward exciting or inflaming the tumult or riot, or if he failed to do what he reasonably could toward preventing, allaying or suppressing it;

(5) Any claim against a city or urban-county government growing out of any defect in the condition of any bridge, street, sidewalk, alley or other public thoroughfare, unless notice has been given to the mayor, clerk of

the city or urban-county government or clerk of the board of aldermen in the manner provided for the service of notice in actions in the Rules of Civil Procedure. This notice shall be filed within ninety (90) days of the occurrence for which damage is claimed, stating the time of and place where the injury was received and the character and circumstances of the injury, and that the person injured will claim damages therefor from the city or urban county;

(6) Any claim arising from the operation of aircraft into or out of an airport unless written notice is given to such local government within seven (7) days of the time within which each such operation occurred. Such notice shall state:

(a) The location of the property affected;

(b) The approximate time such operation occurred; and

(c) If known, the type of aircraft and general direction of its flight.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of this Act, the court in accordance with subsection (2) of this section may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment upon becoming due under the terms of the judgment shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the interest rate as specified in KRS 360.040. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments to be made or the interval between payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payments only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

If the legislative body of a local government against whom a judgment has been entered or a settlement made for a tort claim covered by this Act determines that current revenues of the local government are insufficient to pay the judgment or settlement, or the installment due pursuant to Section 6 of this Act, it may levy a special tax for the purpose of paying such judgment or settlement. Such levy may include any tax permitted by Section 181 of the Kentucky constitution. An ad valorem tax levied pursuant to this section shall not be considered for purposes of calculating either the maximum tax rate or the compensating tax rate in accordance with KRS 132.027. Any tax levied for the purpose of paying a judgment or settlement shall be used solely for such purpose.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) A local government shall provide for the defense of any employe in any action in tort arising out of an act or omission occurring within the scope of his employment of which it has been given notice pursuant to subsection (2) of this section. The local government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (3) of this section, except that a local government's responsibility under this section to indemnify an employe shall be subject to the limitations contained in Section 3 of this Act.

(2) Upon receiving service of a summons and complaint in any action in tort brought against him, an

employe shall, within ten (10) days of receipt of service, give written notice of such action in tort to the executive authority of the local government.

(3) A local government may refuse to pay a judgment or settlement in any action against an employe, or if a local government pays any claim or judgment against any employe pursuant to subsection (1) of this section, it may recover from such employe the amount of such payment and the costs to defend if:

(a) The employe acted or failed to act because of fraud, malice or corruption;

(b) The action was outside the actual or apparent scope of his employment;

(c) The employe willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to the executive authority of the local government pursuant to subsection (2) of this section; or

(d) The employe compromised or settled the claim without the consent of the governing body of the local government.

(4) No employe who is being provided a defense in any action in tort by a local government pursuant to this section shall enter into any compromise or settlement of the action without the approval of the governing body of the local government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

This Act shall apply to all actions in tort in which money damages have not been adjudged as of the effective date of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more local governments may enter into an agreement to pool their financial and administrative resources for the purposes of providing the parties to the agreement risk management, insurance or self-insurance for any property or liability risks to which local governments may be exposed. All such agreements shall be made pursuant to KRS 65.230 to 65.260, except that the provisions of KRS 65.260(2) shall not apply to any agreement entered into under this section.

(2) Any pooling agreement established pursuant to this section shall be open to any local government requesting to enter into such agreement. In addition to agreeing to all terms of the agreement, a local government shall agree to an annual contribution sufficient to pay a proportionate share of the expenses necessary to maintain the resources of the pool. Contributions levied against participating local governments may vary, based upon the individual local government's loss history, risk management practices, exposure to risk and such other factors deemed relevant.

(3) In addition to those items included in any such agreement pursuant to KRS 65.250, the agreement may specify: the nature and scope of insurance coverages to be provided; the methods by which coverages are to be extended, contributions levied and paid, claims administered and defended against; the procedures by which financial reserves shall be established and maintained; and, any other provisions necessary for proper administration of the pooled resources.

(4) Such agreements may provide for the pooling of losses so that any or all of the funds contributed by a participating local government may be used to pay claims against or with respect to any of the other participating local governments.

(5) No entity established by an agreement under this section shall be considered an "insurer" as defined by KRS 304.1-040 or an assessment or cooperative insurance company as defined by KRS Chapter 299. Provided, however, that there shall be maintained in any fund or pool created pursuant to this section, an amount of reserve funds as is deemed adequate. The adequacy of reserve funds shall be determined based upon an annual independent actuarial audit of the pool.

(6) Any entity created to carry out the purposes of this section shall have the power to reinsure, in whole or in part, any of the areas of liability or insurability of local governments.

Section 11. The following KRS sections are repealed:

411.100 Liability of city for property damaged by mob.

411.110 Action against city for injury from defect in thoroughfare—Service of notice.

411.115 Notice of action against governmental unit for damages from use of airport required—Contents.

HB 266, AN ACT relating to the reclassification of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the reclassification of any incorporated area by the general assembly, the legislative body of such area shall provide to the general assembly by certified resolution the population data as required by subsections (2) and (3) of this section.

(2) Prior to the reclassification of any incorporated area by the general assembly, such area shall have attained the population requirements as established by Section 156 of the Constitution of the Commonwealth of Kentucky.

(3) The population of any city proposed for reclassification may be based on consideration of any of the following:

(a) The most recent municipal population estimates as provided by the United States bureau of census;

(b) The most recent property valuation information relating to such area;

(c) Door to door population counts; or

(d) Other municipal population data, such as annexation records, which may not be included in the recent population estimates.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Prior to the reclassification of any incorporated area by the general assembly, the estimated population data and the constitutional reclassification information as required by Section 1 of this Act shall be recorded with the summary of any such legislative proposal in the official record of the general assembly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Upon reclassification of an incorporated area, the general assembly shall provide the secretary of state notice of the reclassification and a copy of the certified information which was presented to the general assembly. Such information shall be maintained by the secretary of state along with other information relating to such area as required by KRS 81.045.

The Committee Substitute to HB 266 is as follows:

HB 266, AN ACT relating to the reclassification of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the reclassification of any incorporated area by the general assembly, the legislative body of such area shall provide to the general assembly by certified resolution the population data as required by subsections (2) and (3) of this section.

(2) Prior to the reclassification of any incorporated area by the general assembly, such area shall have

attained the population requirements as established by Section 156 of the Constitution of the Commonwealth of Kentucky.

(3) The population of any city proposed for reclassification shall be based on consideration of the most recent municipal population estimates as provided by the United States bureau of census, except that if recent growth in a city makes such estimates invalid, a city may submit for consideration an affidavit to certify such new growth. Such an affidavit shall be supported by documentation which may include more recent property valuation information, door to door population counts or other municipal data, such as annexation records, which may not be included in the recent population estimates.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Prior to the reclassification of any incorporated area by the general assembly, the estimated population data and the constitutional reclassification information as required by Section 1 of this Act shall be recorded with the summary of any such legislative proposal in the official record of the general assembly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Upon reclassification of an incorporated area, the general assembly shall provide the secretary of state notice of the reclassification and a copy of the certified information which was presented to the general assembly. Such information shall be maintained by the secretary of state along with other information relating to such area as required by KRS 81.045.

HB 451, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.400 is amended to read as follows:

In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, the city council in cities of the *fourth and* fifth class may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city. All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.

HB 557, AN ACT relating to cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83.420 is amended to read as follows:

[~~(1)~~] The inhabitants of each city of the first class shall constitute a corporation, with power to govern themselves by any ordinances and resolutions for municipal purposes not in conflict with the Constitution or laws of this state or of the United States. In its corporate capacity the city may contract and be contracted with and may sue and be sued. It may adopt a common seal and change it at pleasure or act without a seal. It may acquire property for municipal purposes by purchase or otherwise. It may hold all its property either in its own name or in the name of others, to the use of the city, for the purposes for which the property was granted or dedicated, and may use, manage, improve, sell and convey, rent or lease its property.

[~~(2) The city may, by ordinance, impose fines not exceeding one hundred dollars or imprisonment not exceeding fifty days, or both, for any designated misdemeanor not provided for by statute. In cases where the statutes impose a fine not exceeding one hundred dollars, the city may, by ordinance, increase the fine.~~]

The Committee on Business Organizations and Professions reported HB 143, with Committee Amendment attached thereto, and HB 551 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 143, AN ACT relating to psychologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319.005 is amended to read as follows:

No person not licensed or certified as provided in *this chapter* [~~KRS 319.005 to 319.131~~] shall engage in any practice [~~which in the judgment of~~] the board *finds* [~~of examiners~~] constitutes the practice of psychology as defined in KRS 319.010~~,~~ and is against the public interest *and* [~~. No person shall use the title of "psychologist" in this state without a license granted by said board of examiners and signed by each member thereof. No person not licensed as provided in KRS 319.005 to 319.131 shall~~] hold himself out [~~to the public~~] by any title or description of services representing himself as a psychologist which incorporates the words "psychological," "psychologist," or "psychology"; except as such usage of title [~~and/~~]or description is authorized by *this Act* [~~the board~~]. *No person not licensed or certified shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he is so licensed or certified* [~~The use of the title "psychologist" and the description of services cited above is authorized to those who apply for and are granted certificates within two (2) years after June 18, 1964 as long as they maintain such certificates~~].

Section 2. KRS 319.010 is amended to read as follows:

As used in this Act unless the context requires otherwise:

(1) "Association" means the Kentucky psychological association;

(2) "Board" means the Kentucky board of examiners of psychology;

(3) "Practice of psychology" means rendering to individuals, groups, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing, counseling, and psychotherapy; of constructing, administering, and interpreting tests of mental abilities; aptitudes, interests, attitudes, personality characteristics, emotion, and motivation. The application of said principles and methods includes, but is not restricted to: diagnosis, prevention, and amelioration of adjustment problems and emotional and mental and nervous disorders of individuals and groups; educational and vocational counseling; the evaluation and planning for effective work and learning situations; and the resolution of interpersonal and social conflicts;

(4) "Psychotherapy" means the use of learning, conditioning methods, and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or emotionally maladjustive or ineffectual; and

(5) "Psychologist" means any person who holds himself out by any title or description of services incorporating the words "psychologic," "psychological," "psychologist," "psychology," "psychopractice," or any other term or terms that imply he is trained, experienced, or an expert in the field of psychology. [~~A person practices psychology within the meaning of this chapter when he renders to individuals, groups, organizations, or the public any service involving the application except as specific applications are excluded in KRS 319.015, of principles, methods or procedures of the science and profession of psychology, to include:~~

~~(a) evaluation of: disorders of cognitive processes and emotions, and problems of adjustment in individuals or in groups, through interpretation of tests of mental abilities, aptitudes, interests, attitudes, emotions, motivation, and personality characteristics;~~

~~(b) recommendation for: selection of personnel, arrangement of effective work and learning situations, resolution of interpersonal or social conflicts, and change of employment status, including termination of employment when based on interpretation of tests of the types noted in paragraph (a) above;~~

~~(c) application of: principles and methods of psychological modification of behavior, including hypnosis, and the results of research on such modification of behavior, to individuals or to groups.~~

~~(2) This definition does not include the teaching of principles of psychology for accredited educational institutions, or the conduct of research in problems of human behavior. Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine as defined in the laws of this state.~~]

Section 3. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit [~~or authorize~~]:

(1) The activities, services, and use of title on the part of a person in the employ of the federal government or accredited institutions of higher education, insofar as such activities and services are a part of the official duties in this salaried position;

(2) *Persons licensed, certified or registered under any other provision of the Kentucky Revised Statutes from practicing those arts and utilizing psychological procedures within the scope of their practices and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession, provided that they do not hold themselves out as psychologists* [~~The professional pursuits of clergymen, practitioners of medicine or dentistry, or lawyers, from full performance of their professional duties, or the activities in their normal professional pursuits of social workers, sociologists, probation or parole officers, and marriage counselors, who meet the qualifications of education or experience for full membership in the national organization of their respective fields, or the American Speech and Hearing Association~~];

(3) *Notwithstanding the provisions of any other law to the contrary, it shall be unlawful for any person holding a degree in psychology who is not licensed, certified or registered in an allied field under Kentucky Revised Statutes to practice psychology or psychotherapy as defined in Section 2 of this Act.*

(4) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable *by the board* [~~under KRS 319.040~~] for qualifying training and experience, provided such activities constitute a part of his supervised course of study; [~~or~~]

(5)[~~(4)~~] The recognized educational activities of teachers in accredited public and private schools, or the authorized duties of guidance counselors [~~and psychometricians~~] who are certified by the state board of education, [~~or special education supervisor in state department of education,~~] or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employes;[~~.~~]

(6) The recognized titles and professional activities of school psychologists and psychometricians in accredited public and private schools who are certified by the state board of education. Provided, however, nothing in this Act shall be construed as permitting any psychologist or psychometrician not licensed or certified by the state board of psychology to engage in the practice of psychology other than as an employe of such school system; [~~However, no industrial or business firm or corporation may sell or offer to the public or to other firms or corporations for remuneration any psychological services as specified in this law, unless such services are performed or supervised by individuals duly and appropriately licensed under KRS 319.005 to 319.131.~~]

(7) A duly ordained minister, priest, rabbi, or other clergyman from carrying out his responsibilities while functioning in his ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, provided he does not hold himself out as a psychologist; or

(8) Any nonresident temporarily employed in this state to render psychological services for not more than thirty (30) days every two (2) years who holds a valid current license or certificate that would allow such practice in his home state or home country and who registers with the board.

[~~(5) The board of examiners may, at its discretion, establish additional exclusions by majority action when such exclusions are deemed to be in the public good.~~]

Section 4. KRS 319.020 is amended to read as follows:

(1) The [~~state~~] board [~~of examiners of psychologists~~] shall consist of *seven (7)* [~~five (5)~~] members appointed by the governor. Four (4) members shall be licensed psychologists. *Two (2) members shall be certified by the board as certified psychologists or psychological assistants.* One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(2) Licensed [~~The governor shall appoint from a list of ten (10) submitted to him by the Kentucky psychological association four (4) psychologists holding the degree of doctor of philosophy or its equivalent in psychology from an accredited educational institution and eligible for licensing under the provisions of this~~

~~chapter to be members of the board of examiners of psychologists. The governor shall appoint members, for terms of four (4) years and until their successors are appointed and qualified.~~] psychologist members shall be appointed *by the governor* from a group *consisting* of *the* three (3) nominees *receiving the most votes* for each position to be filled, the nominees to be selected by *all* [~~the~~] psychologists licensed under *this chapter* [~~KRS 319.005 to 319.131~~] from a list of eligible candidates prepared by the Kentucky psychological association. *Candidates shall be solicited from all psychologists licensed according to the provisions of this chapter*, and each nominee shall be a psychologist licensed according to the provisions of this chapter. Each psychologist member shall be an elector of this state and shall have engaged in the practice *or* [~~of~~] teaching of psychology *as a licensed psychologist* for at least three (3) years in this state [~~or elsewhere in the United States~~].

(3) Certified psychologist members shall be appointed by the governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists and psychological assistants certified under this chapter from a list of eligible candidates prepared by the Kentucky psychological association. Candidates shall be solicited from all psychologists and psychological assistants certified according to the provisions of this chapter. Each nominee shall be a resident of this state certified according to the provisions of this chapter and shall have engaged in the practice or teaching of psychology as a certified psychologist or psychological assistant for at least three (3) years in this state.

(4) The term of each board member shall be four (4) years and until a successor is appointed and qualified, except that in 1986, one (1) certified member shall be appointed for a term of two (2) years and one (1) certified member shall be appointed for a term of four (4) years. No member shall serve more than two (2) consecutive full terms. [~~Annually the board shall elect one (1) of its members as chairman.~~] The governor shall fill any vacancy occurring in the board in the manner [~~and at the time~~] prescribed *in subsection (2) of this section* [~~above~~]. Upon recommendation by a majority of the board members and after notice and a hearing [~~by them~~], the governor shall remove any member for incompetence, neglect of duty or malfeasance in office.

(5) Four (4) [~~Three (3)~~] members of the board shall *constitute* [~~be~~] a quorum. Each member shall receive *one hundred* [~~fifty~~] dollars *($100)* [~~($50)~~] per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. *Annually the board shall elect one (1) of its licensed members as chairman. No person shall serve more than two (2) consecutive terms as chairman. The board shall meet at least twice annually and at such other times as it determines. Special meetings may be called by the chairman and shall be called upon the written request of two (2) members.* [~~The board is responsible for preparation or selection and administration of written examinations on general psychological knowledge and on the appropriate psychological specialty or specialties of the applicant as required by this chapter and for recommending licensure or certification under the provisions of this chapter. A schedule of fees for licensure, certificates, and temporary permits shall be established and amended, as necessary, by the board of examiners. The board is authorized to collect said fees. The board is empowered to question violation of this law and to bring suit against such violators. The board may employ necessary personnel for the performance of its functions, determine the classifications and functions of such personnel, and fix the compensation thereof, within the limits of funds available to the board.~~]

Section 5. KRS 319.030 is amended to read as follows:

(1) On June 30 of each year the board shall submit to the governor a written report *including* [~~. Such report shall include~~] the names of all psychologists to whom licenses or certificates have been granted as provided in *this chapter and* [~~KRS 319.050 and 319.061 and certificates as provided in KRS 319.055,~~] any cases heard and decisions rendered [~~in relation to the doings of said board as to future policies. Each member of the board shall review and sign such report before its submission to the governor. Failure of not more than two (2) members to sign the report does not preclude submission~~].

(2) The principal office of the board shall be in Frankfort, but it may meet or conduct any of its business at any place in this state.

(3) The board *shall keep a record of its proceedings and a register of licensed and certified psychologists and psychological assistants. The books and records of the board shall be prima facie evidence of the matters therein contained* [~~may empower any member to conduct any proceeding, hearing, or investigation necessary to its purpose~~].

SECTION 6. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

The board shall adopt rules and regulations:

(1) Establishing requirements, standards and tests to determine the moral, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses or certificates; define areas of specialty within the field of psychology; and prepare or select and administer examinations on general psychological knowledge and on the appropriate psychological specialty or specialities of the applicant. Neither certified psychologists nor psychological assistants may participate in the examination of applicants for licensures;

(2) Establishing and defining the scope of practice within each area of speciality within the field of psychology;

(3) Setting the requirements for issuing, denying, suspending, and revoking licenses and certificates, and placing licensees and certificate holders on probation;

(4) Establishing and collecting reasonable fees for directories, for transcribing and transferring records and other services;

(5) Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board. Every such hearing officer shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript or mechanical recording of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer;

(6) Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure or certification. An individual whose qualifications meet or exceed the standards for licensure in Kentucky may be licensed without examination. An individual whose qualifications meet or exceed the standards for certification in Kentucky may be certified without examination;

(7) Employing personnel including hearing officers which it considers necessary for the performance of its functions, determining the duties of such personnel, and compensating them within the limits of funds available to the board;

(8) The board, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the board, inspectors and for members of the staff exempted from classified service of the state by KRS 18A.115;

(9) Investigating complaints or suspended violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this Act, the board shall have the authority to administer oaths, receive evidence, interview persons, and require the productions of books, papers, documents or other evidence;

(10) Governing the supervision of certified psychologists and candidates for licensure, and regulations governing the supervision and employment of psychological assistants;

(11) Providing for the performance of all other functions necessary to carry out the provisions of law and the rules and regulations adopted by the board relating to psychologists and the practice of psychology;

(12) Notwithstanding the fee schedules specified in this Act, the board may, for good cause, increase or decrease fees as it deems appropriate; and

(13) The board shall have the authority to adopt such other rules and regulations as it deems necessary for the proper administration of this Act.

Section 7. KRS 319.050 is amended to read as follows:

(1) Before granting a license to practice psychology and to use the title "Psychologist" the board shall require *the* [~~any~~] applicant [~~therefor~~] to pass *an* [~~a written~~] examination in psychology [~~to be given at such time and place and under such supervision as the board prescribes. Such applicant shall pay a fee of not to exceed $100 to the board of examiners at the time of application~~]. The applicant *shall:*

(a) Pay a fee not to exceed two hundred dollars ($200); [~~satisfy the board that he~~

~~(1) Is at least eighteen (18) years of age;~~

~~(2) Is of good moral character;~~

~~(3) Is a citizen of the United States or has legally declared his intention of becoming one;~~]

(b) Have [~~(4) Has~~] received a *doctoral* degree [~~of Doctor of Philosophy or its equivalent~~] in psychology from *a regionally accredited* [~~an~~] educational institution*; provided, however, the board may grant a license to an individual otherwise qualified pursuant under this Act who has received a doctoral degree in psychology from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and* [~~rated as acceptable as provided in KRS 319.040;~~]

(c) Have [~~(5) Has~~] had at least one (1) *year of supervised professional* [~~year's~~] experience [~~of a type~~] satisfactory to the board.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist until he successfully completes all licensure requirements. No applicant shall supervise certified psychologists or psychological assistants until he successfully completes all licensure requirements [~~in the practice of psychology; and~~

~~(6) Has not within the preceding six (6) months failed any examination given by the board~~].

(3) The board shall grade *and keep* the examinations [~~returned by the candidates and shall keep them~~] for at least one (1) year. Any unsuccessful *applicant* [~~candidate~~] may, upon written request to the board, arrange to discuss his performance on the examination.

(4) Licensed psychologists may function without supervision and may employ and supervise certified psychologists and psychological assistants. Licensed psychologists may supervise no more than a total of six (6) certified psychologists or psychological assistants at one time.

(5) The board shall after examination in specialty area issue a license to practice psychology.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) A person currently authorized to use the title "certified psychologist with autonomous functioning" may continue to function without supervision in the area specified on the certificate unless the board revokes his certificate pursuant to Section 13 of this Act.

(2) A person currently authorized to use the title "certified psychologist" may continue to function under the supervision of a licensed psychologist in the area specified on the certificate unless the board revokes his certificate pursuant to Section 13 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) Prior to January 1, 1988, the board may issue a certificate to perform certain functions within the practice of psychology and to use the title "certified psychologist" to any applicant who:

(a) Pays a fee not to exceed two hundred dollars ($200);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) The board shall grade and keep the examinations for at least one (1) year. An unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(3) Any psychologist certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist, and shall not employ or supervise certified psychologists or psychological assistants.

(4) After January 1, 1988, no application shall be accepted for an individual to be granted a certificate to perform certain functions within the practice of psychology and to use the title "certified psychologist." After that date any application from an individual with a master's degree in psychology shall be considered an application for "psychological assistant" status.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) A person certified to perform certain functions within the practice of psychology or an applicant for certification whose application has been accepted by the board prior to January 1, 1988, to sit for the certification examination may apply for a certificate to practice without supervision and to use the title "certified psychologist with autonomous functioning" by:

(a) Submitting to the board a letter of endorsement to sit for the examination from his supervisor of record;

(b) Paying a fee not to exceed two hundred dollars ($200);

(c) Having received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(d) Having completed, after certification by the board, the equivalent of two (2) full years of supervised professional experience satisfactory to the board.

(2) The board shall require any applicant for a certificate under this section to pass the national objective examination (EPPP) with a score of one (1) standard deviation below the mean or higher and to pass an oral examination on ethical principles and psychological practice. The applicant may continue to practice psychology under the supervision of a licensed psychologist until he successfully completes all requirements for autonomous functioning.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) The authority of the board to grant autonomous functioning shall be repealed after December 31, 1990.

(5) A certified psychologist who has been granted autonomous functioning may function without supervision in areas in which he is certified. He shall not supervise certified psychologists or psychological assistants.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) For an individual with a master's degree in psychology whose application is received after January 1, 1988, the board shall issue a certificate to perform certain functions within the practice of psychology and to use the title "psychological assistant" to any applicant who:

(a) Pays a fee not to exceed two hundred dollars ($200);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(3) Any psychological assistant certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist and shall not practice

independently, except under the employment and supervision of a licensed psychologist. A psychological assistant shall not represent himself as a licensed or certified psychologist. A psychological assistant shall not employ or supervise certified psychologists or psychological assistants.

Section 12. KRS 319.071 is amended to read as follows:

(1) Licenses *and certificates* must be renewed every three (3) years on or before the anniversary date of issue or renewal. *License and certificate holders* [~~A license holder~~] shall pay to the board [~~of examiners~~] a renewal fee not to exceed *one hundred dollars ($100)* [~~$75.00~~] and shall receive a renewal license *or certificate.* [~~Certificates of qualification must be renewed every three (3) years on or before the anniversary date of issue or renewal by payment to the board of examiners of a renewal fee and the certificate holder shall receive a renewal certificate. Any license or certificate~~] *The board* shall *cancel a* [~~be canceled if the holder fails to secure the renewal~~] license or certificate *not renewed* within three (3) months *of* [~~after~~] the renewal date, but *the board may reinstate* any *cancelled* license or certificate [~~so canceled may be restored by the board~~] upon payment of *the renewal* [~~a~~] fee *and a penalty not to exceed the amount of the renewal fee* within *three (3) years* [~~one (1) year~~] after cancellation. *A licensee or certificate holder whose license or certificate has been cancelled shall not practice psychology until the license or certificate has been restored.*

(2) Any licensee or certificate holder who has failed to renew his license or certificate or has been inactive for three (3) or more years may renew his license or certificate only upon passing an examination procedure and paying the renewal and penalty fees.

(3) Upon petition to the board, licensees or certificate holders may be granted inactive status for a period of time not to exceed three (3) consecutive years. Licensees and certificate holders shall not practice psychology while under inactive status and certificate holders need not be supervised by a licensed psychologist. Inactive licensees or certificate holders may apply for active licenses or certificates as provided for by regulation of the board.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) The board may suspend or revoke any license or certificate or may refuse to issue or renew a license or certificate, or may accept an assurance of voluntary compliance, or may place a licensee or certificate holder on probation. Upon proof that the licensee or certificate holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction, of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license or certificate, or in reinstatement thereof;

(c) Committed any unfair, false, misleading or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board.

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope of practice defined in the speciality area of examination;

(l) Failed to provide adequate supervision for certified psychologists, psychological assistants, applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient or client; and

(o) Improperly divulged confidential information.

(2) No unlawful act or violation of any provision of this chapter by any certificate holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license unless the board finds that the licensed psychologist had knowledge of it.

(3) Three (3) years from the date of a revocation, any person whose license or certificate has been revoked may petition the board for reinstatement. The board shall investigate his petition and may reinstate his license or certificate upon finding that the former holder has complied with any reasonable regulations prescribed by the board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.

(4) The board may, at its own discretion, reconsider, modify or reverse its probations, suspensions, revocations or refusals to issue or renew licenses or certificates at any time.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) In every proceeding for probation, suspension or revocation of a license or certificate, the licensee or certificate holder shall be furnished with written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place thereof at least twenty (20) days prior to the hearing. The notice is sufficient if served on the licensee or certificate holder personally or by certified mail, return receipt requested, to his last known address. The nonappearance of the licensee or certificate holder shall not prevent a hearing. The board or a hearing officer appointed by the board shall conduct the hearing. The licensee or certificate holder shall have the right to be present in persons or by counsel, to present evidence and to be heard in opposition to the charges. If the licensee or certificate holder fails to respond to the complaint at or before the time of the hearing thereon, the board may take the allegations set forth in the complaint as confessed.

(2) The board or the hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths and schedule hearings. All decisions revoking or suspending a license or certificate or placing a licensee or certificate holder on probation shall be made by the board.

(3) Orders of the board suspending or revoking a license or certificate or placing a licensee or certificate holder on probation shall become effective thirty (30) days after written notice is served on the licensee or certificate holder, unless an earlier date is necessary to protect the public health, welfare and safety in which case the order shall become effective as of the date specified and the licensee or certificate holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the board's order is revoked or modified by a final order or judgment.

(4) Any person aggrieved by an order of the board may within thirty (30) days after notice thereof appeal

thereupon to the Franklin circuit court. The court shall decide the appeal upon the certified record and no new or additional evidence shall be heard or considered by the court.

(5) A party aggrieved by a final order of the circuit court may appeal to the court of appeals as in a civil action.

Section 15. KRS 319.111 is amended to read as follows:

[~~For the purpose of KRS 319.005 to 319.131,~~] The confidential relations and communications between licensed *psychologists* [~~psychologist~~] or [~~holder of~~] certificate *holders* [~~of qualification~~] and *their clients* [~~client~~] are placed upon the same basis as those provided by the law between attorney and client, and nothing in this chapter shall be construed to require any such privileged communication to be disclosed.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) Members of the board, its agents and employes shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

(2) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the board is hereby authorized to institute and maintain actions to restrain or enjoin any violation of this chapter, or the rules and regulations of the board.

(3) City, county and Commonwealth's attorney, and the attorney general, shall within their respective jurisdictions and within their legal discretion represent the board, its agents and employes, in the enforcement of the provisions of this chapter and the rules and regulations of the board.

Section 17. KRS 319.990 is amended to read as follows:

Any person who violates any of the provisions of *this chapter* [~~KRS 319.005~~] shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than six (6) months, or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, and each violation shall be deemed a separate offense.

Section 18. The following KRS sections are repealed:

319.040 Acceptance of ratings by other agencies and institutions.

319.055 Certificates of qualification—Issuance—Effect—Fee.

319.061 License issued without examination—When.

319.065 Temporary permits—Fee.

319.081 Suspension and revocation of license or certificate—Grounds—Reinstatement.

319.091 Notice and hearing on refusal, revocation or suspension.

319.101 Judicial review of refusal to issue, revocation or suspension.

The Committee Amendment No. 1 to HB 143 is as follows:

Amend printed copy of HB 143:

On page 5, line 16, after the number "(3)" by deleting lines 16 through 21 in their entirety.

HB 551, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Every brewer, supplier, distributor or retailer shipping into and selling malt beverages within the Commonwealth of Kentucky shall collect from the purchaser a minimum cash deposit on all returnable containers (cooperage) of draft beer and shall not reimburse the purchaser for any amount in excess of the minimum deposit.

(2) The minimum cash deposit shall be as follows:

(a) Four dollars ($4) for containers of seven and three-quarter (7 3/4) gallons or less; and

(b) Ten dollars ($10) for containers of more than seven and three-quarter (7 3/4) gallons.

(3) The brewer, supplier, distributor or retailer's memorandum of invoice and all records pertaining to the sale of draft malt beverages in returnable containers shall show beverage and deposit charges separately, and such memorandums or records shall be retained by every brewer, supplier, distributor or retailer.

(4) Nothing in this regulation shall prevent the collection of deposits above the minimum stated herein, provided an identical deposit is collected on all purchases.

(5) No purchaser shall be liable, directly or indirectly, for any container (cooperage) deposit charges in excess of the deposit collected, and no brewer, supplier, distributor or retailer shall collect or attempt to collect an amount over and above the original deposit charged to the purchaser.

Senate Message

Announcing passage of SB 245, SCR 38, HB 49, with Senate Amendment and HB 278.

Report on Enrolled Bills

HB 35 and HB 158 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 135, HB 417, HB 607, HB 612, SB 72, HB 540, HB 582, HB 596, HB 117, HB 435, HB 353 and HB 412 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 428, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of the Committee Substitute to HB 428. Agreed.

Representative M. Brown moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to HB 428. Agreed.

Representative M. Brown moved the adoption of the Committee Amendment No. 2 to the Committee Substitute to HB 428. Agreed.

Representative Worthington moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to HB 428. Agreed.

Representative M. Brown moved that HB 428, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 19, 1986, roll call on HB 428—Appendix A.)

HB 428, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative M. Brown moved that the vote by which HB 428 by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table.

HB 32, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved the adoption of the Floor Amendment No. 1 to HB 32. Agreed.

Representative J. Harper moved the adoption of the Committee Amendment No. 1 to HB 32. Agreed.

Representative J. Harper moved that HB 32, as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 12. (See February 19, 1986, roll call on HB 32—Appendix A.)

HB 32, as amended, was passed and the title agreed to.

Representative J. Harper moved that the vote by which HB 32, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 579 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that HB 579 be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See February 19, 1986, roll call on HB 579—Appendix A.)

HB 579 was passed and the title agreed to.

Representative Curd moved that the vote by which HB 579 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 46 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that HCR 46 be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 19, 1986, roll call on HCR 46—Appendix A.)

HCR 46 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HCR 46 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 43 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that SB 43 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 19, 1986, roll call on SB 43 -Appendix A.)

SB 43 was passed and the title agreed to.

Representative Noe moved that the vote by which SB 43 was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tempore Worthington presiding.

SB 92 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that SB 92 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 19, 1986, roll call on SB 92—Appendix A.)

SB 92 was passed and the title agreed to.

Representative Arnold moved that the vote by which SB 92 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 418, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Floor Amendment No. 2 to HB 418. Agreed.

Representative Blevins moved that HB 418, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 8. (See February 19, 1986, roll call on HB 418—Appendix A.)

HB 418, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 418, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 4, HB 30, HB 147 and HB 154 had been examined and found correctly enrolled. HB 4, HB 30, HB 147 and HB 154 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:38 p.m.)

HB 4, HB 30, HB 147 and HB 154 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 509, with Committee Substitute and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of the Committee Substitute to HB 509. Agreed.

Representative Crupper moved that HB 509, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 7. (See February 19, 1986, roll call on HB 509—Appendix A.)

HB 509, by way of Committee Substitute, was passed.

Representative Crupper moved the adoption of the Committee Title Amendment to HB 509. Agreed, and the Title was agreed to.

Representative Crupper moved that the vote by which HB 509, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 504, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Amendment No. 1 to HB 504. Agreed.

Representative Stumbo moved that HB 504, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 19, 1986, roll call on HB 504—Appendix A.)

HB 504, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 504, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 528, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Committee Amendment No. 1 to HB 528. The motion was rejected.

Representative Brinkley moved that HB 528 be passed.

On the roll call the vote was: Yeas 27, Nays 61. (See February 19, 1986, roll call on HB 528—Appendix A.)

HB 528 was defeated.

Representative Brinkley moved that the vote by which HB 528 was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 548, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Amendment No. 1 to HB 548. Agreed.

Representative Freibert moved that HB 548, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 4. (See February 19, 1986, roll call on HB 548—Appendix A.)

HB 548, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which HB 548, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 481, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that HB 481 be passed.

Representative Gray moved the adoption of the Floor Amendment No. 1 to HB 481.

Representative Rattliff inquired of the Chair whether Floor Amendment No. 1 was germane to the bill.

The Chair ruled Floor Amendment No. 1 was germane.

On the roll call the vote was yeas 22—Bendl, Bennett, Brinkley, M. Brown, Burch, Burnette, L. Clark, P. Clark, Cyrus, Deskins, Gray, Handy, Lile, Little, Maggard, Morris, Priddy, Rose, Scorsone, Seum, Stone, Yates. Nays 61—Allen, Arnold, Barrows, Blandford, Blevins, F. Brown, Caldwell, Clapp, Clarke, Cline, Crupper, Curd, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Holbrook, Holloway, Jensen, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Long, Lyne, Mack, McBee, McElroy, McNutt, Meyer, Moberly, Napier, O'Brien, Overstreet, Pearman, Preston, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Smith, Stewart, Strong, Stumbo, Thomas, Todd, Turner, Williams, Worthington.

Floor Amendment No. 1 to HB 481 was rejected.

Representative Lear moved that HB 481 be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See February 19, 1986, roll call on HB 481—Appendix A.)

HB 481 was passed and the title agreed to.

Representative Lear moved that the vote by which HB 481 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 586 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that HB 586 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 19, 1986, roll call on HB 586—Appendix A.)

HB 586 was passed and the title agreed to.

Representative Gedling moved that the vote by which HB 586 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 178 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved that SB 178 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 19, 1986, roll call on SB 178—Appendix A.)

SB 178 was passed and the title agreed to.

Representative Clapp moved that the vote by which SB 178 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 69 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Cowan moved that SB 69 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 19, 1986, roll call on SB 69—Appendix A.)

SB 69 was passed and the title agreed to.

Representative Cowan moved that the vote by which SB 69 was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 264, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment to HB 264 is as follows:

Amend printed copy of HB 264 as follows:

On page 1, line 14, by deleting the word "*or*" after the word *materials* and by substituting therefor "*and*"; and on page 1, line 16, by deleting the word "*or*" after the word *maintain* and by substituting therefor the word "*and*"; and on page 1, line 19, by deleting the word "*or*" and by substituting therefor the word "*and*".

Representative Long moved that the House concur in the Senate amendment to HB 264. Agreed.

Representative Long moved that HB 264, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 19, 1986, roll call on HB 264—Appendix A.)

HB 264, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which HB 264, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 26, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment to HB 26 is as follows:

Amend printed copy of HB 26:

On page 2, line 14:

by placing brackets around and striking through ", not to exceed thirty (30) days,".

Representative Mack moved that the House concur in the Senate Amendment to HB 26. Agreed.

Representative Mack moved that HB 26, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 19, 1986, roll call on HB 26—Appendix A.)

HB 26, as amended by the Senate, was passed and the title agreed to.

Representative Mack moved that the vote by which HB 26, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 169, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate amendment to HB 169 is as follows:

Amend printed copy of HB 169:

Page 1, line 3:

by inserting "*sixty-five*" after the word "least" and placing brackets around and striking through the word "seventy";

Page 1, line 4:

by inserting "*(65%)*" at the beginning of line 4 and placing brackets around and striking through "(70%)";

Page 1, line 12:

by inserting "*sixty-five*" at the beginning of the line and placing brackets around and striking through "(70%)";

Page 1, line 15:

by deleting "*seventy*" and inserting "*sixty-five*" in lieu thereof and by deleting "*(70%)*" and inserting "*(65%)*" in lieu thereof;

Page 2, line 9:

by inserting the following after word "studies.": "*When taken as an elective, foreign language shall be considered part of the sixty percent (60%) requirement.*"

Representative L. Clark moved that the House concur in the Senate Amendment to HB 169. Agreed.

Representative L. Clark moved that HB 169, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 3. (See February 19, 1986, roll call on HB 169—Appendix A.)

HB 169, as amended by the Senate, was passed and the title agreed to.

Representative L. Clark moved that the vote by which HB 169, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Senate Amendments attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 2 to HB 282 is as follows:

Amend printed copy of HB 282:

Page 1, after line 18, by creating a new section 2 as follows:

Section 2. Whereas it is important for the efficient operation of county government for the county judge/executive to appoint certain personnel of his choosing, an emergency is declared to exist, and this act shall be come effective upon its passage and approval by the Governor.

The Senate Amendment No. 3 to HB 282 is as follows:

Amend printed copy of HB 282:

by amending the Title to read as follows, An Act relating to county personnel and, declaring an emergency.

Representative Stone moved that the House concur in Senate Amendment No. 2 to HB 282. Agreed.

Representative Stone moved that the House concur in the Senate Amendment No. 3 to HB 282. Agreed.

Representative Stone moved that HB 282, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 59, Nays 24. (See February 19, 1986, roll call on HB 282—Appendix A.)

HB 282, as amended by the Senate, was passed and the title agreed to.

Representative Stone moved that the vote by which HB 282, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 3 and SB 142 had been examined and found correctly enrolled. SB 3 and SB 142 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 3:29 p.m.)

Orders of the Day (continued)

HB 322, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 322 is as follows:

Amend printed copy of HB 322:

On page 2, line 1, after "*163.130*" add "*to 163.160 and subject to the restrictions and requirements for such services set forth in the federally-approved state plan for vocational rehabilitation services*".

Representative Noe moved that the House concur in the Senate Amendment to HB 322. Agreed.

Representative Noe moved that HB 322, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 19, 1986, roll call on HB 322—Appendix A.)

HB 322, as amended by the Senate, was passed and the title agreed to.

Representative Noe moved that the vote by which HB 322, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 199 is as follows:

Amend printed copy of HB 199:

On page 1, line 7, after the word "be" by adding the words "*the fair market value*"; and

On page 1, line 8, by deleting the words "*issuing agency*" and inserting in lieu thereof, the words "*department of finance, division of personal property*"

Representative R. Jones moved that the House concur in the Senate Amendment to HB 199. Agreed.

Representative R. Jones moved that HB 199, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 19, 1986, roll call on HB 199—Appendix A.)

HB 199, as amended by the Senate, was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 199, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 178 is as follows:

Amend printed copy of HB 178:

On page 1, line 6,

By inserting after the word "*notify*" the following phrase:

"*within forty-eight (48) hours*";

And on page 1, line 13,

by inserting in front of the word "*last*" the following phrase:

"*superintendent of public instruction who shall notify the*"

And on page 1, line 16,

by inserting after the word "*and*" the following phrase: "*the superintendent of public instruction who shall notify*"

And on page 3, line 3,

by deleting after the phrase "*by the*" the phrase "*justice cabinet*" and inserting in lieu thereof the phrase "*superintendent of public instruction*"

And on page 3, line 13,

by deleting after the phrase "*by the*" the phrase "*justice cabinet*" and inserting in lieu thereof the phrase "*superintendent of public instruction*"

Representative Burch moved that the House concur in the Senate Amendment to HB 178. Agreed.

Representative Burch moved that HB 178, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 19, 1986, roll call on HB 178—Appendix A.)

HB 178, as amended by the Senate, was passed and the title agreed to.

Representative Burch moved that the vote by which HB 178, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 277, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved to suspend the rules to place HB 277, with Senate Amendment attached thereto, back in the Orders of the Day. Agreed.

Motions, Petitions and Communications

Representative Clarke moved to reassign SB 130 to the Committee on Natural Resources and Environment. Agreed.

Representative Crupper moved the adoption of the following Legislative Citation No. 34. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Brian Hammons, 6 year old son of Dewayne and Wanda Hammons and grandson of Representative and Mrs. Clay Crupper, for winning the title of "Little Mister Kentucky" on November 10, 1985. You have bestowed great pride and honor on your family and community for the trophies you have won including: Best Personality, Best Smile and Most Photogenic. Your charm and modeling talents have afforded you the privilege of appearing in commercials and modeling assignments which is most noteworthy.

This auspicious body applauds you for the title of "Little Mr. Grant County" and "Little Mr. Wal-Mart," and we extend best wishes to you as you represent Kentucky at the National Pageant in Louisville, Kentucky, in June 1986. (Sponsored by Representative Crupper)

Representative Noe moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 199. Agreed.

Representative T. Jones moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 199. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 702, by Representative Pearman: AN ACT relating to motor carriers.

HB 703, by Representative Pearman: An ACT relating to eminent domain.

HB 704, by Representative Pearman: AN ACT relating to state purchasing.

HB 705, by Representatives Handy, Riner, Seum, Guenthner, Reinhardt, Yates, Cyrus, Noland, Hines, Head, Mack and Bendl: AN ACT relating to confinement of convicted felons.

HB 706, by Representative Pearman: An ACT relating to motor vehicles.

HB 707, by Representative Williams: AN ACT relating to funding for education programs.

HR 86, by Representatives Lyne and Gedling: A RESOLUTION urging the Transportation Cabinet to purchase Kentucky manufactured aluminum for use in the production of motor vehicle license plates.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: HB 561.

Judiciary-Civil: HB 668, HB 231, HB 238, HB 492, HB 536, HB 545, HB 560, HCR 62, HB 622.

Education: HB 669, HB 677, HB 684, HCR 85.

Transportation: HB 634.

State Government: HCR 75, HB 691, HB 682.

Report of Committees

The Committee on Counties and Special Districts reported HB 43, HB 436, HB 571, HB 611 and HCR 39 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to public petitions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.184 is amended to read as follows:

(1) A valid petition for the creation of a taxing district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court to form a (insert type of taxing district) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the taxing district.)"

(2) The petition shall contain the name and address of each petitioner. *The name shall be both printed and signed, and a space shall be provided by each name and address for the social security number of the signer, but no signature shall be invalidated for failure to enter the social security number.* Each signature shall be dated as of the day of its execution, the last signature no later than one hundred eighty (180) days from the first signature.

Section 2. KRS 65.815 is amended to read as follows:

(1) A valid petition for the creation of a district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court of each county concerned to form a (insert type of district) for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the district.)"

(2) The petition shall contain the name and address of each petitioner. *The name shall be both printed and signed, and a space shall be provided by each name and address for the social security number of the signer, but*

no signature shall be invalidated for failure to enter the social security number. Each signature shall be dated as of the day of its execution, the last signature no later than one hundred eighty (180) days from the first signature.

HB 436, AN ACT relating to volunteer fire department aid funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.250 is amended to read as follows:

(1) There is created and established within the department of housing, buildings and construction a volunteer fire department aid fund consisting of insurance premium surcharge proceeds as provided in subsection (2) of KRS 136.392. All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and in KRS 61.316.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the state fire marshal shall allot on an annual basis an equal share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the department of housing, buildings and construction as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) For the biennium beginning July 1, *1986* [~~1984~~] and ending June 30, *1988* [~~1986~~], two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the volunteer fire department aid fund shall be allocated each fiscal year of the biennium to the fire fighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for fire fighters. If any monies in the training center fund remain uncommitted, unobligated or unexpended at the close of the first fiscal year of the biennium, then such monies shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the commission on fire protection personnel standards and education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of fire fighters training centers shall be submitted to the commission on fire protection personnel standards and education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the commission on fire protection personnel standards and education.

(6) Upon the written request of any department, the commission on fire protection personnel standards and education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the volunteer fire department aid fund during any fiscal year.

HB 571, AN ACT relating to county treasurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.010 is amended to read as follows:

(1) The fiscal court of each county, at its regular June term every four (4) years, beginning with June, 1982, shall appoint a county treasurer for a term of four (4) years. If for any reason the county treasurer is not appointed at the June term, the county judge/executive shall call the fiscal court to meet immediately after the adjournment of the term on a day fixed by order entered on the order book of the court, and the meeting shall be held within two (2) weeks after the adjournment of the June term.

(2) The county treasurer shall take office on the July 1st immediately following his appointment.

(3) No person is eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, at least twenty-five (25) years old, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) *reputable* [~~good~~] sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(4) *If, at any time, the county treasurer is unable to perform the duties of this office because of illness, physical or mental incapacity, or other cause beyond his control for more than thirty (30) days, or if there is a vacancy created in the office by the resignation or death of the current county treasurer, then the fiscal court shall appoint, at either a regular term or a special term called by the county judge/executive, an acting county treasurer to serve until the current county treasurer is able to resume the performance of his duties, or until the end of the current county treasurer's term of office, whichever is deemed necessary by the fiscal court under the particular circumstances.* The fiscal court may remove the county treasurer *or acting county treasurer* at any time for neglect of duty, incompetency or dishonesty.

[~~(5) In the case of a vacancy from any cause in the office of county treasurer, the county judge/executive shall call a special term of the fiscal court to fill the vacancy.~~

~~(6) The county treasurer holding office on April 2, 1982 shall serve until his successor is appointed and qualified.~~]

HB 611, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 72.025 is amended to read as follows:

Coroners shall require a post-mortem examination to be performed in the following circumstances:

(1) When the death of a human being appears to be caused by homicide or violence;

(2) When the death of a human being appears to be the result of suicide;

(3) When the death of a human being appears to be the result of the presence of drugs or poisons in the body;

(4) When the death of a human being appears to be the result of a motor vehicle accident and the operator of the motor vehicle left the scene of the accident or the body was found in or near a roadway or railroad;

(5) When the death of a human being occurs while the person is in a state mental institution or mental hospital when there is no previous medical history to explain the death, or while the person is in police custody, a jail or penal institution, except pursuant to a sentence of death;

(6) When the death of a human being occurs in a motor vehicle accident and when an external examination of the body does not reveal a lethal traumatic injury;

(7) When the death of a human being appears to be the result of a fire or explosion;

(8) When the death of a child appears to indicate child abuse prior to the death;

(9) When the manner of death appears to be other than natural;

(10) When human skeletonized remains are found;

(11) When post-mortem decomposition of a human corpse exists to the extent that external examination of the corpse cannot rule out injury or where the circumstances of death cannot rule out the commission of a crime;

(12) When the death of a human being appears to be the result of drowning;

(13) When the death of an infant appears to be caused by sudden infant death syndrome in that the infant has no previous medical history to explain the death;

(14) When the death of a human being occurs as a result of an accident [~~involving an airplane~~];

(15) When the death of a human being occurs under the age of forty (40) and there is no past medical history to explain the death;

(16) When the death of a human being occurs at the work site and there is no apparent cause of death such as an injury or when industrial toxics may have contributed to the cause of death; [~~and~~]

(17) When the body is to be cremated and there is no past medical history to explain the death*;*

(18) When the death of a human being is sudden and unexplained; and

(19) When the death of a human being occurs and the decedent is not receiving treatment by a licensed physician and there is no ascertainable medical history to indicate the cause of death.

HCR 39, A CONCURRENT RESOLUTION directing a study of the Office of Property Valuation Administrator.

WHEREAS, Property Valuation Administrators are charged with the important responsibility for assessing all types of property for tax purposes for the state and county governments and other districts; and

WHEREAS, assessments made by the Property Valuation Administrator have a direct bearing on the amount of revenue received by state and local governments; and

WHEREAS, it is essential that accurate assessments be made of all taxable property at 100% of its fair cash value; and

WHEREAS, revenues received from property taxes are vital to the continued improvement of our elementary and secondary schools and institutions of higher education, as well as the other important services and programs for the citizens of the Commonwealth; and

WHEREAS, it is in the best interests of the citizens of the Commonwealth to insure that the Office of Property Valuation Administrator operates at its maximum potential;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Program Review and Investigation Committee of the Legislative Research Commission is directed to conduct a preliminary investigation of the Office of Property Valuation Administrator for the purpose of examining the efficiency and effectiveness of said office as it operates in the Commonwealth and identifying any problems related thereto. Upon completion of the preliminary investigation, the Program Review and Investigation Committee may conduct such further study of the Office of Property Valuation Administrator as it deems necessary.

Section 2. That the preliminary investigation of the Office of Property Valuation Administrator shall be completed by September 1, 1986. In the event the Committee decides further investigation is warranted, the Committee shall determine the scope of such further investigation, which shall be subject to Legislative Research Commission approval, and complete its work and make necessary recommendations by July 1, 1987.

Section 3. Staff services to be utilized in completing the preliminary investigation are estimated to cost $19,000, and shall be provided from the regular Legislative Research Commission budget subject to the limitations and other research responsibilities of the commission.

Motions, Petitions, and Communications (continued)

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Barrows, HB 692; Representative Bendl, HB 226; Representative Blevins, HB 679; Representative Bruce, HR 69; Representative Burnette, HB 245; Representative P. Clark, HB 453, HB 501; Representative Cline, HB 348; Representative Curd, HB 692; Representative Cyrus, HB 692; Representative Donnermeyer, HB 150, HB 197, HB 347, HB 510, HB 538; Representative Ford, HB 692; Representative Freibert, HB 692; Representative Hines, HB 510, HB 677; Representative Holbrook, HB 197; Representative B. Jones, HB 692; Representative Little, HB 692; Representative Long, HB 403; Representative Napier, HB 692; Representative Nett, HB 692; Representative Preston, HB 692; Representative Pritchett, HB 692; Representative Rapier, HB 692; Representative Reinhardt, HB 348, HB 692; Representative B. Richardson, HB 692; Representative Rose, HB 469; Representative Scorsone, HB 93, HB 548; Representative Stewart, HB 469; Representative Stumbo, HB 692; Representative White, HB 609.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute for HB 135, by Representative Bruce.:

Amend printed copy of Committee Substitute to HB 135:

On page 1, line 10 by deleting "*or members of their*"

On page 1, line 11, by deleting "*respective households*"

On page 2, line 3 by deleting "*and members of*"

On page 2, line 4 by deleting "*such households*".

Floor Amendment No. 1 to HB 497, by Representative Hancock:

Amend printed copy of HB 497:

On page 1, line 16, by adding the following after "authority.":

"*In the appeal of a final order of the personnel board initiated after the effective date of this Act, the appointing authority shall not spend in excess of five thousand dollars ($5,000) in fees and compensation of attorneys representing the position of the appointing authority, whether such attorneys be employes of the appointing authority, employes of another agency of state government, or attorneys under contract.*"

Floor Amendment No. 2 to HB 45, by Representative Blevins:

Amend printed copy of HB 45:

on page 1, line 5, after the word "counties," insert the following: "*a state university,*".

Floor Amendment No. 1 to Committee Substitute for HB 452, by Representative Lear:

Amend printed copy of Committee Substitute to HB 452:

On page 2, line 9, after the word "*dentist.*" by adding "*(3) When any person receiving treatment from a dental hygienist outside the office of a dentist is under the care of or is being treated by a physician or is taking prescription drugs, the dental hygienist shall not treat such person without first obtaining the written permission of the treating or prescribing physician, such permission shall be given not more than seventy-two (72) hours in advance of the treatment by the dental hygienist.*"

Floor Amendment No. 2 to HB 61, by Representative Donnermeyer:

Amend printed copy of HB 61:

On page 9, line 12, after "provisions," by deleting the following:

"*other than reporting requirements,*";

On page 9, line 13, after "chapter" by inserting the following:

"*except violations of KRS 121.150(2) and reporting requirements contained within this chapter.*"

Floor Amendment No. 1 to HB 565, by Representative Stone:

Amend printed copy of HB 565:

"(4) A surface coal mine shall not be required to meet the requirements of subsection (1) if there is a certified emergency medical technician or other similarly qualified medical personnel within a five minute drive of the mine."

Floor Amendment No. 1 to Committee Substitute for HB 126, by Representative Todd:

Amend printed copy of Committee Substitute to HB 126:

on page 17, line 4, after the "." to insert the following:

Section 10. KRS 138.655 is amended to read as follows:

As used in KRS 138.655 to 138.725 and 138.990(17) and (18), unless the context requires otherwise:

(1) "Cabinet" means the transportation cabinet;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any commercial truck or commercial tractor-trailer combination having a total of three (3) or more axles *and a declared gross weight above 26,000.* The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsections (3) and (4) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(c) "Commercial" refers to any activity for business purposes;

(d) For the purposes of KRS 138.660(3), motor carriers, trailers and semitrailers shall not mean a farm vehicle as defined in KRS 186.050(4).

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter; except that for the purposes of the taxes imposed under KRS 138.660(3), "quarterly" shall mean the period beginning July 15, 1982, and ending September 30, 1982 and each succeeding three (3) month period thereafter;

(14) "Combined licensed weight" shall mean the greater of:

(a) The declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or

(b) The highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

on page 17, line 5, after the word "Section" to delete the number "10" and insert in lieu there of the number "11".

on page 17, line 11, after the word "Section" to delete the number "11" and insert in lieu thereof the number "12".

The following members filed a request to have their names withdrawn as a co-sponsor: Representative Bronger, HB 465, Representative L. Clark, HB 465, Representative Donnermeyer, HB 415, Representative J. Harper, HB 443, Representative B. Smith, HB 585.

Representative Burnette moved that HB 645 be withdrawn. Agreed.

Representative Burnette moved that Floor Amendment No. 1 to HB 645 be withdrawn. Agreed.

Announcements

The following meetings were announced:

Natural Resources and Environment: Thursday, February 20, 1986, 8:00 a.m.

Education: Budget Review on adjournment, Thursday, February 20, 1986, 7:00 p.m.

Labor and Industry: Wednesday, February 19, 1986 on adjournment, Room 105.

Appropriations and Revenue: Subcommittee on Human Resources, Thursday, February 20, 1986, 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 20, 1986.

On the roll call the vote was yeas 80—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Lyne, Mack, Maggard, McBee, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Yates. Nays 2—Handy, Holbrook.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 20, 1986

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father J. Williamson Brown, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 19, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 708, by Representative Long: AN ACT relating to health care reimbursement.

HB 709, by Representative Bruce: AN ACT relating to banking.

HB 710, by Representatives Gray, Priddy, M. Brown, L. Clark, Smith and Head: AN ACT relating to workers' compensation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 696, HB 699.

Banking and Insurance: HB 700, HB 702.

County and Special Districts: HB 698.

Education: HB 707.

Health and Welfare: HB 697, HB 701.

Judiciary-Civil: HB 703.

State Government: HB 704, HB 705, HR 86, SB 245, SCR 38.

Transportation: HB 706.

Report of Committees

The Committee on Rules reported HB 135, HB 353, HB 412, HB 417, HB 540, HB 582, HB 596, HB 607, HB 612, SB 72, HB 176, HCR 51, HB 202, HB 516, HB 524 and HB 526 have been posted for passage in Orders of the Day, February 21, 1986.

The Committee on Rules reported HB 70, HB 472, HB 483, and HB 126 have been recommitted to the Committee on Appropriations and Revenue.

Report on Enrolled Bills

The Committee on Enrollment reported HB 278 has been examined and found correctly enrolled. HB 278 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:05 p.m.)

HB 278 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report of Committees

The Committee on Counties and Special Districts reported HB 490, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 490, AN ACT relating to installation of septic tank systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for such systems that have a surface discharge.

(2) No person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet. Such construction, installation or alteration shall be performed *only* by a person *certified by the local health department pursuant to Section 3 of this Act* [~~licensed pursuant to KRS Chapter 318 and shall be performed in accordance with KRS 318.010 and 318.030~~].

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit where the cabinet through a duly authorized inspector, employe or agent finds that the system was not constructed, installed, or altered in conformance with such permit and regulations issued by the cabinet.

(4) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, results of an approved percolation test in the area where the proposed system is to be located and additional soils and other information as directed by the cabinet by regulation.

(5) The cabinet shall fix a reasonable schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. Such fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(6) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1982, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(7) All records necessary to properly carry out this section shall be transferred from the department of housing, buildings, and construction to the cabinet for human resources.

Section 2. KRS 211.355 is amended to read as follows:

(1) Any local board of health authorized to serve as agent of the cabinet for human resources for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering such programs including inspections incidental thereto. Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.

(2) The local board of health is authorized to set a certification fee of not more than twenty-five dollars ($25) for installers of on-site sewage disposal systems meeting the criteria set forth in Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The local health department shall establish a program to certify persons as installers of on-site sewage disposal systems. In order to be fully certified by the local health department, eligible persons shall:

(a) Be a licensed plumber pursuant to KRS Chapter 318; or

(b) Have indicated sufficient skill and competency necessary for proper installation of on-site sewage disposal systems by providing written verification from the local health department in the county in which the work was completed that he had installed five (5) lateral fields and septic tank systems either prior to July 13, 1984 or while holding a probationary installer's certificate and that these installations had been inspected by a certified inspector and passed such inspection.

(2) The local health department shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at such time as the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed such inspection. The local health department shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of such verification. In order to be issued a probationary certification, eligible persons shall:

(a) Certify in writing that they will make such installations in accordance with requirements set forth by the cabinet for human resources; and

(b) Have two (2) years experience in installing such systems while under the direct supervision of a certified installer.

(3) Persons certified as installers shall pay a reasonable fee of not more than twenty-five dollars ($25) for such certification.

(4) The local health department may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:

(a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

(b) Practiced fraud or deception in applying for or obtaining a certificate;

(c) Is incompetent to install on-site sewage disposal systems;

(d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or

(e) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

(5) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for such systems established by the cabinet.

The Committee Substitute to HB 490 is as follows:

HB 490, AN ACT relating to installation of septic tank systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for such systems that have a surface discharge, *and for such systems being installed on a farmstead as defined in KRS 318.010(8).*

(2) No person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet. Such construction, installation or alteration shall be performed *only* by a person *certified by the cabinet pursuant to Section 2 of this Act* [~~licensed pursuant to KRS Chapter 318 and shall be performed in accordance with KRS 318.010 and 318.030~~].

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-

site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit where the cabinet through a duly authorized inspector, employe or agent finds that the system was not constructed, installed, or altered in conformance with such permit and regulations issued by the cabinet.

(4) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, results of an approved percolation test in the area where the proposed system is to be located and additional soils and other information as directed by the cabinet by regulation.

(5) The cabinet shall fix a reasonable schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. Such fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(6) Any regulation relating to on-site sewage disposal that is in effect on July 15, *1986* [~~1982~~], shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(7) All records necessary to properly carry out this section shall be transferred from the department of housing, buildings, and construction to the cabinet for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed such inspection, shall be certified automatically.

(2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at such time as the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed such inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of such verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make such installations in accordance with requirements set forth by the cabinet for human resources.

(3) Persons certified as installers shall pay a reasonable fee of not more than twenty-five dollars ($25) for such certification.

(4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:

(a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

(b) Practiced fraud or deception in applying for or obtaining a certificate;

(c) Is incompetent to install on-site sewage disposal systems;

(d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or

(e) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

(5) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for such systems established by the cabinet.

Section 3. KRS 211.355 is amended to read as follows:

(1) Any local board of health authorized to serve as agent of the cabinet for human resources for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering [~~such~~] programs including*:*

(a) Inspections incidental to construction, installation, and alteration of on-site sewage disposal systems; and

(b) Inspections incidental to maintenance and operation of on-site sewage disposal systems [~~inspections incidental thereto~~].

(2) Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.

Section 4. KRS 211.370 is amended to read as follows:

The commissioner of the department for health services shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. *The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class, the local board of health may adopt regulations relating to the proper construction, installation and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.*

Section 5. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means department of housing, buildings and construction;

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall not include the installation of on-site sewage disposal systems, except for the piping, fixtures, or other appurtenances needed within the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building.

(5) "Public building" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm *situated on ten (10) acres or more of land which is* located outside the corporate limits of a municipality [~~and not connected to a public water supply~~];

(9) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(10) "Commissioner" means the commissioner of the department of housing, buildings and construction;

(11) "Code" means the Kentucky state plumbing code.

The Committee on Labor and Industry reported HB 485 with Committee Substitute attached thereto, and HB 628 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 485, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Unless the context otherwise requires:

(1) "Participant" shall include, but is not limited to, those who give consideration in order to participate in the pyramid distribution plan;

(2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity;

(3) "Promotes" means inducing one (1) or more other persons to become a participant;

(4) "Pyramid distribution plan" means any plan, program, device, or scheme utilizing a pyramid or chain process by which a person gives consideration to participate in the plan, such participation enabling the participant to receive compensation or things of value in return for inducing other persons to become participants in the plan, whether or not such ability to receive such compensation is in conjunction with the purchase of merchandise; and

(5) "Compensation" means payment of any money, thing of value, or financial benefit conferred in return for inducing others to become participants in the pyramid distribution plan. Compensation does not mean payment based on sales of goods or services to persons who are not participants in the pyramid distribution plan, and who are not purchasing in order to participate in the pyramid distribution plan.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

It is hereby declared unlawful for any person to establish, promote, operate, or participate in any pyramid distribution plan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

All of the remedies and powers granted to the attorney general by KRS 367.190 to 367.300 and 367.990 for enforcement of KRS 367.170 shall be granted to the attorney general with equal force and effect for enforcement of this Act.

Section 4. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(18) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(19) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(20 (a) Any person who violates this Act shall be guilty of a Class C felony; and

(b) The appropriate commonwealth's attorney shall have authority to prosecute felony violations of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

These provisions may be cited as the "Pyramid Sales Act."

The Committee Substitute to HB 485 is as follows:

HB 485, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Unless the context otherwise requires:

(1) "Participant" shall include, but is not limited to, those who give consideration in order to participate in the pyramid distribution plan;

(2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity;

(3) "Promotes" means inducing one (1) or more other persons to become a participant;

(4) "Pyramid distribution plan" means any plan, program, device, scheme, or other process by which a participant gives consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program;

(5) "Compensation" means payment of any money, thing of value, or financial benefit conferred in return for inducing others to become participants in the pyramid distribution plan. Compensation does not include payment based on sales of goods or services by the person or by other participants in the plan to anyone, including a participant in the plan, who is purchasing the goods or services for actual use or consumption;

(6) "Consideration" means the payment of cash or the purchase of goods, services, or intangible property but does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, nor does it include time and effort spent in pursuit of sales or recruiting activities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It is hereby declared unlawful for any person to establish, promote, operate, or participate in any pyramid distribution plan.

(2) A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan does not change the identity of the plan as a pyramid distribution plan nor is it a defense under this Act that a participant, on giving consideration, obtains goods, services or intangible property in addition to the right to receive compensation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies and powers granted to the attorney general by KRS 367.190 to 367.300 and 367.990 for enforcement of KRS 367.170 shall be granted to the attorney general with equal force and effect for enforcement of Section 2 of this Act.

(2) Nothing in this chapter limits the power of any agency of the Commonwealth of Kentucky to enforce criminal or civil provisions of any other chapter of the Kentucky revised statutes or the right of any person to bring civil actions granted by any other chapter of the Kentucky revised statutes and based upon conduct prohibited herein and nothing in this chapter limits the power of the Commonwealth of Kentucky to punish any person for any conduct which constitutes a crime by statute or at common law.

Section 4. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(14) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(15) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(16) Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(17) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(18) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(19) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(20)(a) Any person who violates Section 2 of this Act shall be guilty of a Class C felony; and

(b) The appropriate commonwealth's attorney shall have authority to prosecute felony violations of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

These provisions may be cited as the "Pyramid Sales Act."

HB 628, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two (2) medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative shall be furnished a copy of said medical report within a reasonable time. Also, the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative, shall be furnished a copy of said vocational report within a reasonable time.

5. Within ninety (90) days of the receipt of notice by the employer of the filing of the claim, the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workers' compensation board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workers' compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease *or asbestos-related disease*, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be as provided for under the general provisions of the workers' compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workers' compensation act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for ten (10) years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which:

(a) When diagnosed by chest roentgenogram, yields one (1) or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconiosis by the international labor organization;

(b) When diagnosed by biopsy or autopsy, yields massive lesions in the lung; or

(c) When diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) of this subsection if diagnosis had been made in the manner prescribed in paragraph (a) or (b) of this subsection, then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13) (a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the board may provide for such purpose.

(b) In all claims for compensation partially payable by the special fund the commissioner of labor shall be designated as codefendant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 342.316(3) shall apply to employes' asbestos-related disease claims filed on or after July 15, 1986.

The Committee on Natural Resources and Environment reported HB 316 with Committee Amendment attached thereto, HB 392, and HB 511 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 316, AN ACT relating to pollution control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 77.155 is amended to read as follows:

(1) A person shall not by himself, his agent or employe, or as agent or employe of another, discharge into the atmosphere from any single source of emission whatsoever, any air contaminant for a period or periods aggregating more than three (3) minutes in any one (1) hour which is:

(a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States bureau of mines;

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in (a) of this subsection.

(2) A person shall not by himself, his agent or employe, or as agent or employe of another, discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property. The board shall have power, by regulation, to fix reasonable limits, by weight or otherwise, for particular air contaminants or other material which in the opinion of said board may cause or have tendency to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public. Exceeding such limits shall be prima facie evidence of violation of this section.

(3) If a district conducts a vehicle emissions testing program, it shall not charge a fee if a vehicle passes the test. No vehicle shall be tested until it is three (3) years old. The age of the vehicle shall be determined by the model year on the vehicle registration certificate.

The Committee Amendment No. 1 to HB 316 is as follows:

Amend printed copy of HB 316:

On page 2, by adding after line 14, the following: "Section 2. It is not the intent of this Act to impair existing contracts for vehicle emissions testing, and emissions testing programs currently conducted under contracts which cover automobiles or include fees exempted or prohibited by this Act may continue unaffected for the duration of the contract."

HB 392, AN ACT relating to solid waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.846 is amended to read as follows:

(1) Before the cabinet may issue a permit to operate a solid waste disposal site or facility, the operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in a sum to be determined by the cabinet on the recommendation of the secretary of each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) per site, conditioned upon the faithful performance of the requirements in this chapter and of the rules and regulations of the cabinet to insure satisfactory closure of the facility. The cabinet may accept liquid or semi-liquid assets deposited in an escrow account for the operating life of the landfill plus not less than two (2) additional years as an alternative guarantee of adequate financial responsibility for closure of the facility.

(2) An operator may at any time during the term of the permit apply to the cabinet for an amendment of the permit so as to increase or reduce the acreage affected by it. The operator shall file an application and map in the same form and with the same content as required for an original application under this chapter and shall pay a basic fee set by regulation bearing a reasonable relationship to the cost of processing the permit application and shall file with the cabinet a supplemental bond for each acre or fraction of an acre of the increase approved. If the cabinet approved a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced but in no case shall the bond for the site be reduced below ten thousand dollars ($10,000).

(3) When the facility has been filled, covered, graded, seeded and revegetated according to regulations promulgated by the cabinet and approved by the cabinet the secretary shall release the bond or other guarantee of financial responsibility that has been provided to the cabinet. *However, the bond or other guarantee of financial responsibility shall not be released earlier than two (2) years from the date of the last placement of waste at the facility.* If such closure requirements are not accomplished by the operator of the facility, the cabinet shall forfeit the bond or demand release of the moneys held to guarantee financial responsibility.

(4) All funds from the forfeiture of bonds or other sureties required pursuant to this section shall be placed in the state treasury and credited to a special trust and agency account which shall not lapse. Such account shall be

known as the "solid waste disposal site restoration fund" and all moneys placed in the fund shall be used solely for the proper closure of solid waste disposal sites and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided.

(5) No operator or person shall be eligible to receive another permit to operate a solid waste disposal site or facility who has forfeited any bond or other surety provided pursuant to this section, unless the land for which the bond or other surety was forfeited has been reclaimed without cost to the state, or the operator or person has paid such sum as the cabinet finds is adequate to reclaim such lands.

(6) Where one (1) operator succeeds another at any solid waste disposal site or facility prior to final closure, either by sale, assignment, lease or otherwise, the cabinet may release the first operator from all liability under this section, provided that the successor operator meets the requirements of this section and assumes, as part of his obligation under this chapter, all liability for the reclamation and final closure of the area of land affected by the former operation.

(7) In the reclamation of land affected by incomplete or improper closure of a solid waste disposal site or facility for which it has the funds available, the cabinet may avail itself of any services which may be provided by other state agencies or by agencies of the federal government, and may compensate them for such services. The cabinet may cause the reclamation work to be done by its own employes, or by employes of other governmental agencies or through contracts with qualified persons.

(8) The cabinet may also receive any federal funds, state funds, or any other funds for the closure of solid waste disposal sites or facilities.

(9) The cabinet, any other agency and any person under a contract with the cabinet pursuant to this section shall have the right of access to the land affected to carry out such reclamation.

(10) No city, county, urban-county government or agency of a city, county, or urban-county government, or taxing district, or other political subdivision of the Commonwealth shall be required to file any surety bond with the cabinet pursuant to this section for the operation of a solid waste disposal site or facility by such city, county, urban-county government or agency thereof, or taxing district, or any other political subdivision of the Commonwealth.

HB 511, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the cabinet and notice of the application for a waste site or facility has been published at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste site or facility. The publication shall take place after the cabinet has made a preliminary determination of the application.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a waste site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this cabinet; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste site or facility may file with the cabinet a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste site or facility is proposed.

(4) No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. [~~In the case of hazardous waste landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to subsection (5) of this section.~~]

(5) The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] within thirty (30) days after the hearing described in subsections (3) and (4) of this section. If no hearing is requested under the provisions of subsections (3) and (4) of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the [~~landfill or other~~] site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~], the court, urban-county government, or governing body of an incorporated municipality shall so notify the cabinet in writing within ten (10) days. If a hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the cabinet if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] in the manner prescribed herein.

(6) The provisions of subsection (5) of this section shall not apply to a proposed regional integrated waste treatment and disposal demonstration facility.

Section 2. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste disposal facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste [~~landfill or other~~] site or facility [~~for the land disposal of hazardous waste~~] be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5), except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) through KRS 224.855(4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance

in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in subsections (b) and (c) of this section; and

(e) The relationship of the proposal to local planning and existing development.

[~~Except that~~] In the case of hazardous waste [~~landfills or other~~] sites or facilities [~~for the land disposal of hazardous waste~~] the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) Any hazardous waste which would migrate, leach, or generate gas in its normal state shall not be disposed of in a landfill unless such waste has been either neutralized, detoxified, solidified, encapsulated or otherwise treated so that the character of the waste is such that it will prevent substantial migration, leaching or gas generation or unless the landfill is designed and constructed in such manner as will prevent substantial migration, leaching or gas generation, that in either case may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure.

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant.

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). A hazardous waste disposal facility shall maintain additional excess liability coverage in the amount of at least ten million dollars ($10,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be five million dollars ($5,000,000) per occurrence with an annual aggregate of ten million dollars ($10,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

The Committee Amendment No. 1 to HB 511 is as follows:

Amend printed copy of HB 511:

On page 4, line 22, by inserting after the word "facility" the following: "*or to generators of hazardous waste who produce less than one thousand (1000) kilograms of waste per month or to facilities which in the industrial process generate hazardous waste but are not primarily engaged in processing, recycling or disposing of the waste on site or to facilities to be located where a local unit of government has adopted zoning regulations pursuant to KRS Chapter 100. The provisions of subsection (5) shall not apply to facilities in existence prior to January 1, 1986, but shall apply to any substantial modification to such facilities.*"

The Committee on State Government reported HB 75, HB 400, HB 416, HB 454 with Committee Amendment attached thereto, HB 502, HB 555, HB 572, HB 592, HB 608 with Committee Amendment attached thereto, HJR 28 with Committee Amendment attached thereto, HCR 65 with Committee Substitute attached thereto, SB 2, SB 10, SB 13, SB 51, SB 53, SB 57 and SB 158 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 75, AN ACT relating to psychiatric and similar services for criminal defendants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state operated or state supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state operated or state supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the cabinet for human resources to provide the evaluation, treatment or service unless the situation is an emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the cabinet for human resources is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the state treasury in the same manner as other medical expenses of indigent prisoners confined in the county jail.

(5) The cabinet for human resources shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

HB 400, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a [~~running horse~~] race track *under the jurisdiction of the Kentucky state racing commission* at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, 1986, tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to three percent (3%) of money wagered, to be allocated by contractual agreement between the qualified tracks and the horsemen's benevolent and protective association and if no such agreement exists, the percentage of pari-mutuel handle paid in purses in 1983 shall prevail. An amount equal to three quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 13, 1984, the effective date of this Act until September 15, 1986, any track with a daily average handle of less than nine hundred thousand dollars ($900,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Monies retained under this provision shall be allocated in the same manner as the tax credit is allocated.

(2) An excise tax is imposed on every person, corporation or association which operates a [~~standardbred horse~~] race track *under the jurisdiction of the Kentucky harness racing commission* at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering *on harness racing* shall be deducted from the tax and set aside by the revenue cabinet and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. From July 15, 1982, until June 30, 1986, associations conducting a [~~harness~~] race meet *under the jurisdiction of the Kentucky harness racing commission* with a daily

average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of two percent (2%) of all money wagered, to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect. Said expenditures shall be approved by the harness racing commission. From July 13, 1984, until September 15, 1986, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Monies retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.

Section 2. KRS 138.515 is amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a [~~running horse~~] race track *under the jurisdiction of the Kentucky state racing commission* at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, shall not be less than fifteen percent (15%) nor more than sixteen percent (16%) at the discretion of those tracks averaging over nine hundred thousand dollars ($900,000) in pari-mutuel handle per racing day. The commission at those tracks averaging nine hundred thousand dollars ($900,000) or less in pari-mutuel handle per racing day, at the discretion of such track, shall not be less than sixteen and one half percent (16 1/2%) nor more than seventeen and one half percent (17 1/2%) in races where the patron is required to select one (1) horse, [~~except that for the purposes of races conducted under the auspices of the quarter horse and appaloosa commission shall not exceed seventeen percent (17%) of the gross amount handled,~~] and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a [~~running horse~~] race track *under the jurisdiction of the Kentucky state racing commission* at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The racing association averaging nine hundred thousand dollars ($900,000) or less per racing day shall pay to the backside improvement fund an amount equal to one-half of the one percent (1/2 of 1%) of its commissions.

Section 3. KRS 230.215 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the thoroughbred horse breeding industry within the Commonwealth and to encourage the improvement of the breed of thoroughbred horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate thoroughbred racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all thoroughbred racing not licensed under KRS 230.210 to 230.360 and appaloosa racing not licensed under KRS 230.210 to 230.360 or *230.610 to 230.760* [~~230.410 to 230.447~~] is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of thoroughbred racing or appaloosa racing at a thoroughbred race meeting, or the participation in any way in thoroughbred racing or appaloosa racing at thoroughbred race meetings, or the entrance to or presence where thoroughbred racing and appaloosa racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of KRS 230.210 to 230.360 in the interest of the public health, safety, and welfare, to vest in the commission forceful control of thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth with plenary power to prescribe rules and regulations and conditions under which all legitimate thoroughbred racing and appaloosa racing at thoroughbred race meetings and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of thoroughbreds in the Commonwealth, to regulate and maintain thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled thoroughbred racing or appaloosa racing practices, and to regulate and maintain

thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of thoroughbred racing and appaloosa racing in the Commonwealth. In addition to the general powers and duties vested in the commission by KRS 230.210 to 230.360, it is the intent hereby to vest in the commission the power to eject or exclude from association grounds or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing.

Section 4. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule require.

(2) The commission shall as soon as practicable, but in no event later than March 1 in any calendar year award dates for racing in the Commonwealth during the year. In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after March 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.210 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track which is granted overlapping dates with another thoroughbred or harness racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or

KRS *230.610 to 230.760* [~~230.410~~ ~~to~~ ~~230.447~~] is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 5. KRS 230.360 is amended to read as follows:

(1) KRS 230.210 to *this section* [~~230.360~~] are not applicable to trotting or pacing meets or races conducted in this state nor to Appaloosa racing, [~~and~~] quarter horse racing *and arabian racing* licensed under KRS *230.610 to 230.760* [~~230.410~~ ~~to~~ ~~230.447~~].

(2) The provisions of KRS 230.210 to 230.360 are intended to be statewide and exclusive in their effect and no city, county or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances or regulations on the subject of thoroughbred race meetings. Any person licensed under KRS 230.300 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS 137.170 to 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480 to 138.490, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; Provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 6. KRS 230.385 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on *racing regulated by the commission* [~~harness~~ ~~races~~ ~~at~~ ~~harness~~ ~~meetings~~] under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed *by the commission* under this chapter to conduct [~~harness~~] race meetings and only upon the licensed premises and on the dates and hours for which racing has been authorized by the commission. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under the provisions of this chapter.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at *licensed* [~~harness~~] race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

Section 7. KRS 230.443 is amended to read as follows:

No quarter horse or Appaloosa foaled by artificial insemination shall be eligible to race under the provisions of KRS *230.610 to 230.760* [~~230.410~~ ~~to~~ ~~230.447~~], but Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of KRS *230.610 to 230.760* [~~230.410~~ ~~to~~ ~~230.447~~].

Section 8. KRS 230.610 is amended to read as follows:

(1) As used in KRS 230.610 to 230.760 unless the context requires otherwise:

(a) ''Association'' includes incorporated as well as unincorporated associations.

(b) ''Commission'' means ''Kentucky harness racing commission'' *established under this chapter to regulate standardbred, quarter horse, appaloosa and arabian racing.*

(c) ''Standardbred horse races'' shall mean and include both trotting and pacing races.

(d) ''Commissioner'' means a member of the Kentucky harness racing commission.

(e) ''Secretary'' means the secretary of the Kentucky harness racing commission.

(f) "Quarter horse" means a horse that is registered with the American quarter horse association of Amarillo, Texas.

(g) "Appaloosa" means a horse that is registered with the appaloosa horse club of Moscow, Idaho.

(h) "Arabian" means a horse that is registered with the arabian horse registry of America of Denver, Colorado.

(2) The provisions of KRS 230.610 to 230.760 do not apply to standardbred horse races conducted by any state, county or other fair association, holding not more than one (1) meeting annually, which meeting does not exceed six (6) days and at which there is no pari-mutuel wagering.

Section 9. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency independent of state administrative departments and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons. The governor shall appoint seven (7) members and at least one (1) of these members shall have no financial interest in the business or industry regulated. The president pro tem of the senate shall appoint one (1) member and the speaker of the house shall appoint one (1) member. The seven (7) members appointed by the governor shall serve a term beginning July 1, 1982, and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified. Thereafter, the seven (7) members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years beginning July 1, 1982, and shall serve until their successors are appointed and duly qualified.

(3) *The governor shall appoint three (3) members as advisory members of the Kentucky harness racing commission, with non-voting rights, to represent the interests of the quarter horse, appaloosa and arabian industries. The initial members shall serve a term of three (3) years from the effective date of their appointments. Thereafter, their successors shall serve terms of four (4) years.*

(4) The commission shall biennially make a full report to the general assembly of its proceedings for the two-year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(5)[~~(4)~~] The commission may appoint one (1) or more deputy commissioners and assistant deputy commissioners who shall perform such duties as prescribed by the commission.

(6)[~~(5)~~] The *voting* members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend. *Non-voting members shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.*

Section 10. KRS 230.630 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of standardbred, *quarter horse, appaloosa and arabian* horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.610 to 230.760 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all standardbred, *quarter horse, appaloosa and arabian* horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of [~~standardbred~~] horse racing *under the jurisdiction of the commission* or interfere with the orderly conduct of [~~standardbred~~] horse racing *under the jurisdiction of the commission*; provided, however, no persons shall be excluded or ejected from association grounds on the basis of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track facilities or other places of business of any licensee for the purpose of satisfying itself that the provisions of KRS 230.610 to 230.760 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe rules, regulations and conditions under which standardbred horse racing *under the jurisdiction of the commission* shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any [~~standardbred~~] race meeting *under the jurisdiction of the commission*;

(4) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. The commission may advertise any of its regulations either before or after filing;

(5) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such;

(6) The commission shall have authority to compel any racing association licensed under KRS 230.610 to 230.760 to file with the commission from time to time a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association, and such other financial reports or other records as may be beneficial for the commission to conduct its business;

(7) The present rules and regulations of the Kentucky trotting commission shall remain in effect as the initial rules and regulations of the Kentucky harness racing commission until revoked or modified by the Kentucky harness racing commission.

Section 11. KRS 230.640 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the standardbred, *quarter horse, appaloosa and arabian* horse breeding industry within the Commonwealth and to encourage the improvement of the breed of standardbred, *quarter horse, appaloosa and arabian* horses. *To this end, the commission is authorized and encouraged to establish a close working relationship with horse industry representatives in this country and abroad, establish an aggressive promotional and informational effort designed to attract supporters of the horse industry to the Commonwealth of Kentucky, provide liaison during promotional activities and coordinate locational activities in Kentucky.* Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate standardbred, *quarter horse, appaloosa and arabian* racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all standardbred, *quarter horse, appaloosa and arabian* racing not licensed as provided herein is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of standardbred, *quarter horse, appaloosa and arabian* racing, or the participation in any way in standardbred, *quarter horse, appaloosa and arabian* racing, or the entrance to or presence where standardbred, *quarter horse, appaloosa and arabian* racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of the Commonwealth in the interest of the public health, safety, and welfare, to vest in the commission forceful control of standardbred, *quarter horse, appaloosa and arabian* racing in the Commonwealth with plenary power to prescribe rules and regulations and conditions under which all legitimate standardbred, *quarter horse, appaloosa and arabian* racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of standardbred, *quarter horse, appaloosa and arabian* horses in the Commonwealth, to regulate and maintain standardbred, *quarter horse, appaloosa and arabian* racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled standardbred, *quarter horse, appaloosa and arabian* racing practices, and to regulate and maintain standardbred, *quarter horse, appaloosa and arabian* racing in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of standardbred racing in the Commonwealth. In addition to the general powers and duties vested in the commission, it is the intent hereby to vest in the commission the power to eject

or exclude from association grounds, or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of standardbred, *quarter horse, appaloosa and arabian* racing or interfere with the orderly conduct of standardbred, *quarter horse, appaloosa and arabian* racing. The power of the commission to penalize persons for violation of KRS 230.610 to 230.760 or any rule or regulation of the commission shall not be limited to denial of, suspension of, revocation of, or voidance of a license to conduct or participate in standardbred, *quarter horse, appaloosa and arabian* racing, and ejection and exclusion of persons from association grounds but the commission may in its discretion impose fines not to exceed five thousand dollars ($5,000) against an association and one thousand dollars ($1,000) against other licensees in addition thereto.

Section 12. KRS 230.660 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.650, the commission may employ, at reasonable compensation, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any [~~standardbred~~] horse race meeting *under the jurisdiction of the commission* and to the best interest of standardbred, *quarter horse, appaloosa and arabian* racing. The commission for the purpose of maintaining integrity and honesty in standardbred, *quarter horse, appaloosa and arabian* racing shall prescribe by rule the powers and duties of the persons employed under this section or performing duties rendering services to an association. The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.610 to 230.760 in such manner and in such proportions as the commission may by rule provide.

(2) The compensation of the employes referred to in this section shall be paid by the licensee directly or to the commission, as the commission shall direct the conducting of the [~~standardbred~~] race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission and costs of operation of the commission including but not limited to office rental, expenses, utilities, commissioners' actual expenses, etc. shall be prorated among and paid by the various associations licensed under KRS 230.610 to 230.760 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(3) Each person, as a condition precedent to the privilege of receiving a license under KRS 230.610 to 230.760 to conduct standardbred, *quarter horse, appaloosa or arabian* horse race meetings shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section.

Section 13. KRS 230.680 is amended to read as follows:

No person, corporation or association shall hold or conduct any standardbred, *quarter horse, appaloosa or arabian* horse race meeting for any stake, purse, or reward within the Commonwealth of Kentucky without securing the required license from the commission, and paying to the commission the license fee which the commission may in its discretion prescribe.

Section 14. KRS 230.690 is amended to read as follows:

(1) Any person desiring to conduct standardbred, *quarter horse, appaloosa or arabian* horse racing within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule, require.

(2) The commission shall as soon as practicable, but in no event later than February 1 in any calendar year award dates for racing in the Commonwealth during the year. In the event scheduled racing is cancelled by reason of flood, fire, inclement weather, or other causes the commission may award after February 1

additional racing dates to make up for those dates cancelled by such flood, fire, inclement weather, or other causes. The commission may issue such license to conduct a standardbred, *quarter horse, appaloosa or arabian* horse race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the standardbred, *quarter horse, appaloosa and arabian* industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including, but not limited to, purses and awards to owners of horses participating in races.

(3) Every license issued under this section shall specify among other things the name of the person to whom issued, the address and location of the track where the [~~standardbred~~] race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a standardbred, *quarter horse, appaloosa or arabian* horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for [~~standardbred~~] horse racing because of flood, fire or other catastrophe or other causes, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with standardbred, *quarter horse, appaloosa or arabian* horse racing or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(6) The fee for a license issued under this section shall be in such amount as prescribed by the commission.

(7) Every standardbred, *quarter horse, appaloosa or arabian* horse race not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 15. KRS 230.700 is amended to read as follows:

Every person not required to be licensed under KRS 230.690 who desires to participate in standardbred, *quarter horse, appaloosa or arabian* horse racing in the Commonwealth as a horse owner, trainer, driver, apprentice driver, agent, stable employe, racing official, association employe, mutuel clerk or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interests of [~~standardbred~~] horse racing *under the jurisdiction of the commission* and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all standardbred, *quarter horse, appaloosa and arabian* horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under KRS 230.610 to 230.760. Fees for all licenses issued under this section shall be prescribed by and paid to the commission.

Section 16. KRS 230.720 is amended to read as follows:

(1) Every license granted under KRS 230.610 to 230.760 is subject to revocation or suspension by the

commission in any case where it has reason to believe that any provision of KRS 230.610 to 230.760 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of [~~standardbred~~] horse racing *under the jurisdiction of the commission* may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued by it, or the imposition of any fine or penalty, is final except that such action is subject to appeal to the Franklin Circuit Court. The action of the commission shall remain in full force and effect until reversed or modified by a valid final order of the Franklin Circuit Court.

(3) No court may enjoin any order of the commission denying, suspending or revoking any license or imposing fine or penalty, pending appeal to the Franklin Circuit Court.

Section 17. KRS 230.740 is amended to read as follows:

The provisions of KRS 230.610 to 230.760 are intended to be statewide and exclusive in their effect and no city, county or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances or regulations on the subject of [~~standardbred~~] horse race meetings *under the jurisdiction of the commission.* Any persons licensed under KRS 230.690 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, admission taxes imposed by KRS 138.480 to 138.490, and the pari-mutuel taxes imposed by KRS 138.510(2), and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and standardbred, *quarter horse, appaloosa or arabian* horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 18. KRS 230.750 is amended to read as follows:

The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a [~~standardbred~~] horse track *under the jurisdiction of the commission* at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta and other types of exotic betting.

Section 19. The following KRS sections are repealed:

230.410 Definitions.

230.413 Kentucky quarter horse, Appaloosa and Arabian commission—Members—Terms—Report—Compensation.

230.417 Secretary of commission—Functions.

230.420 Regulations for races—License required—Revocation of license.

230.423 Conducting or participating in nonlicensed race prohibited—Public nuisance, abatement.

230.427 Race meetings, when held—Prize regulations.

230.430 Entry of horse under false name or out of class prohibited.

230.433 Change of name—Concealing or misrepresenting past performance prohibited.

230.437 Timer not to announce false time.

230.440 Licensed track to be bonded.

230.447 Wagering governed by regulations.

Section 20. The General Assembly confirms the reorganization of the Kentucky harness racing commission by Executive Order 85-176, issued on March 1, 1985, to the extent it is not otherwise confirmed by this Act.

HB 416, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:

(a) The 1st day of January plus one extra day;

(b) *The 3rd Monday in January;*

(c) The 3rd Monday in February;

(d)[~~(c)~~] Good Friday, one-half day;

(e)[~~(d)~~] The last Monday in May;

(f)[~~(e)~~] The 4th day of July;

(g)[~~(f)~~] The 1st Monday in September;

(h)[~~(g)~~] Presidential election day as required under KRS 2.190;

(i)[~~(h)~~] The 4th Thursday in November plus one extra day;

(j)[~~(i)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), *(i)*,[~~(h)~~] and *(j)*[~~(i)~~] of subsection (1), the governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

HB 454, AN ACT relating to the disqualification of prosecuting attorneys, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) In the event a commonwealth's attorney or an assistant commonwealth's attorney; or a county attorney or an assistant county attorney is indicated by a duly empaneled state or federal grand jury on any felony charge under the laws of this Commonwealth, or a similar charge in the federal courts, such charge shall result in his immediate disqualification from further acting as a prosecuting attorney during the pendency of the action in any state or federal court. Such charge or charges shall in no way limit his right to practice civil law, unless the right to do so would contravene some other statute or existing canon of legal ethics, nor shall the charge alone prevent said attorney from receiving the usual salary or allowances for expense of the office, which would otherwise be payable.

(2) In the event such disqualification exists as to an assistant commonwealth's attorney or an assistant county attorney, the suspension of acting as a prosecuting attorney shall be exercised and enforced by the duly elected commonwealth's attorney or county attorney as applicable.

(3) In the event the disqualification relates to a commonwealth's attorney or county attorney, upon certification of such disqualification to the attorney general by the circuit judge or district judge of the

jurisdiction in which said prosecuting attorney has been duly elected, the attorney general shall name an attorney to serve as special prosecutor for the Commonwealth for the the duration of the disqualification. The attorney, in this instance, need not be a commonwealth's attorney or county attorney as provided in KRS 15.730.

(4) Nothing in this section shall prohibit a duly elected commonwealth's attorney or county attorney from being a candidate for re-election if said election is to be held during the period of disqualification, so long as said prosecuting attorney has not been found guilty of a felony or entered a plea of guilty to a felony at the initial trial court level. A conviction or a plea of guilty at the trial court level to a felony shall act as a bar to being a candidate for re-election.

Section 2. Whereas, disqualification of prosecutors as contemplated by this Act would foster the integrity of the judicial process, and whereas, such purpose is deemed to be of immediate importance, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to HB 454 is as follows:

Amend printed copy of HB 454:

On page 2, line 20, after the letter "*A*" and before the word "*conviction*" by inserting the word "*final*".

HB 502, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.650 is amended to read as follows:

(1) Whenever the governor, lieutenant governor or any state agency or subdivision or the principal officer thereof, shall *reproduce and preserve for record* [~~have, either in whole or in part,~~] any records or papers *by photographic, microphotographic, or other process which accurately reproduces the original records, which forms a durable medium, and which is performed* [~~photographed, photostated, microphotographed, microfilmed or filmed and preserved for record~~] in accordance with rules and regulations promulgated by the department, the original thereof may be disposed of or destroyed.

(2) Any such reproductions shall be deemed the originals of the records or papers for all purposes, and any facsimiles, certified copies or reproductions thereof, or any prints or enlargements of the reproductions shall be admissible as evidence in any court or proceeding of this Commonwealth, and shall be prima facie evidence of the facts set forth in and the contents of the original records or papers.

HB 555, AN ACT relating to fees charged by the secretary of state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 188.040 is amended to read as follows:

The sheriff serving the summons upon the secretary of state shall pay to him, at the time of service, a fee of *ten dollars ($10)* [~~two dollars ($2.00)~~], which shall be taxed as costs in the action. The secretary shall keep a record of each summons, including the day and hour of service upon him.

Section 2. KRS 271A.050 is amended to read as follows:

(1) Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this chapter, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this chapter.

(2) Such registration shall be made by:

(a) Filing with the Secretary of State:

1. An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and brief statement of the business in which it is engaged, and

2. A certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Secretary of State of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(b) Paying to the Secretary of State a registration fee in the amount of *three dollars ($3)* [~~one dollar ($1)~~] for each month, or fraction thereof, between the date of filing such application and December 31st of the calendar year in which such application is filed.

(3) Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Section 3. KRS 271A.055 is amended to read as follows:

A corporation which has in effect a registration of its corporate name may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of *thirty-six dollars ($36)* [~~twelve dollars ($12)~~]. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

Section 4. KRS 271A.630 is amended to read as follows:

In respect of the following documents, the fees to be collected by the secretary of state for filing and issuing, when required by this chapter, and by the county clerk for recording, when required by this chapter, shall be:

(1) Articles of incorporation and a certificate of incorporation, by the secretary of state, *twenty-five dollars ($25)* [~~fifteen dollars ($15)~~];

(2) Articles of amendment and a certificate of amendment, by the secretary of state, *twenty-five dollars ($25)* [~~fifteen dollars ($15)~~];

(3) Restated articles of incorporation and a restated certificate of incorporation, by the secretary of state, *twenty-five dollars ($25)* [~~fifteen dollars ($15)~~];

(4) Articles of merger or consolidation and a certificate of merger or consolidation, by the secretary of state, *twenty-five dollars ($25)* [~~fifteen dollars ($15)~~];

(5) An application to reserve a corporate name, by the secretary of state, ten dollars ($10);

(6) A notice of transfer of a reserved corporate name, by the secretary of state, ten dollars ($10);

(7) A statement of change of address of registered office or change of registered agent, or both, by the secretary of state, ten dollars ($10);

(8) A statement of the establishment of a series of shares, by the secretary of state, ten dollars ($10);

(9) A statement of cancellation of shares, by the secretary of state, ten dollars ($10);

(10) A statement of reduction of stated capital, by the secretary of state, ten dollars ($10);

(11) A statement of intent to dissolve, by the secretary of state, ten dollars ($10);

(12) A statement of revocation of voluntary dissolution proceedings, by the secretary of state, ten dollars ($10);

(13) Articles of dissolution and certificate of dissolution, by the secretary of state, fifteen dollars ($15);

(14) An application of a foreign corporation for a certificate of authority to transact business in this state and a certificate of authority, by the secretary of state, *sixty dollars ($60)* [~~thirty-five dollars ($35)~~];

(15) An application of a foreign corporation for an amended certificate of authority to transact business in this state and an amended certificate of authority, by the secretary of state, *twenty dollars ($20)* [~~ten dollars ($10)~~];

(16) A copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, by the secretary of state, *twenty dollars ($20)* [~~ten dollars ($10)~~];

(17) A copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, by the secretary of state, *twenty dollars ($20)* [~~ten dollars ($10)~~];

(18) An application for withdrawal of a foreign corporation and a certificate of withdrawal, by the secretary of state, *twenty dollars ($20)* [~~ten dollars ($10)~~];

(19) An annual report, by the secretary of state, *ten dollars ($10)* [~~five dollars ($5)~~]; and

(20) Any other statement or report, of a foreign or domestic corporation, by the secretary of state, ten dollars ($10).

(21) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

Section 5. KRS 271A.635 is amended to read as follows:

The Secretary of State shall charge and collect:

(1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, fifty cents ($.50) per page and *five dollars ($5)* [~~one dollar ($1)~~] for the certificate and affixing the seal thereto.

(2) At the time of any service of process on him as resident agent of a corporation, *ten dollars ($10)* [~~four dollars ($4)~~], which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Section 6. KRS 273.368 is amended to read as follows:

(1) In respect of the following documents, the fees to be collected by the secretary of state for filing and issuing, when required by this chapter, shall be:

(a) Articles of incorporation and a certificate of incorporation, *eight dollars ($8)* [~~four dollars ($4)~~];

(b) Articles of amendment and a certificate of amendment, *eight dollars ($8)* [~~four dollars ($4)~~];

(c) Restated articles of incorporation and restated certificate of incorporation, *eight dollars ($8)* [~~four dollars ($4)~~];

(d) Articles of merger or consolidation and a certificate of merger or consolidation, *eight dollars ($8)* [~~four dollars ($4)~~];

(e) Articles of dissolution and certificate of dissolution, *five dollars ($5)* [~~three dollars ($3.00)~~];

(f) A statement of change of address of registered office or change of registered agent, or both, by the secretary of state, five dollars ($5);

(g) A statement by a foreign corporation designating a resident process agent, by the secretary of state, five dollars ($5);

(h) An annual report by a domestic corporation, by the secretary of state, *four dollars ($4)* [~~two dollars ($2.00)~~];

(i) An annual report by a foreign corporation, by the secretary of state, *eight dollars ($8)* [~~four dollars ($4)~~];

(j) Certified copy of the articles of incorporation and existing amendments, by the secretary of state, twenty-five dollars ($25) as an original filing fee, and a recording fee of ten dollars ($10); ten dollars ($10) for recording subsequent amendments; and

(k) Any other statement or report of a foreign or domestic corporation, *eight dollars ($8)* [~~four dollars ($4)~~].

(2) For recording any documents, as required by this chapter, the county clerk shall be entitled to the fees specified in KRS 64.012.

Section 7. KRS 273.369 is amended to read as follows:

The secretary of state shall charge and collect:

(1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, fifty cents ($.50) per page and *five dollars ($5)* [~~one dollar ($1.00)~~] for the certificate and affixing the seal thereto.

(2) At the time of any service of process on him as resident agent of a corporation, *ten dollars ($10)* [~~four dollars ($4.00)~~], which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Section 8. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops in the office of the county clerk in the county where the land on which the crops are growing or to be grown is located;

(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(c) in all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence, if the debtor is not a resident of this state but has a principal place of business in this state, in the office of the county clerk in the county where the nonresident has a principal place of business, if the debtor is a nonresident of this state and has no principal place of business in this state then in the office of the secretary of state of the Commonwealth of Kentucky. The secretary of state may collect a fee of *eight dollars ($8)* [~~three dollars ($3.00)~~] for each filing in his office under this section.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

Section 9. KRS 355.9-404 is amended to read as follows:

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, and identify the original

statement by file number and date filed. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be *three dollars ($3)* [~~$.75~~]. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) In the absence of a demand by the debtor for a statement of termination, and within fifteen days after a secured transaction evidenced by record in the county clerk's office has terminated, the secured party shall send to the clerk a statement that he no longer claims a security interest under the financing statement or other instrument, which shall be identified by file number and date filed. If the actual secured party willfully fails to send such a termination statement within fifteen days after he no longer claims a security interest, he shall be liable to the debtor for twenty-five dollars, and in addition for any loss caused to the debtor by such failure.

(3) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto. Whenever a statement required under KRS Ch. 355 need be sent to a party to the transaction by the county clerk, it shall be sufficient for the county clerk to send the statement to the party entitled to receive it, at his last known address.

(4) The uniform fee for filing and indexing a termination statement for any financing statement filed prior to July 1, 1966 for which a termination fee was not paid when the financing statement was filed and for sending or delivering the terminated instrument and for sending or delivering the financing statement shall be *three dollars ($3)* [~~$.75~~].

Section 10. KRS 362.095 is amended to read as follows:

(1) A foreign limited partnership may be authorized to do business in this state when, and only when, it has:

(a) Filed a certified copy of its articles of partnership or a certified copy of its certificate of limited partnership and all existing amendments in the office of the secretary of state, which may omit signature pages other than those signed by a general partner. It shall thereafter file a certified copy of subsequent amendments to its articles or certificate in the office of the secretary of state, provided that no amendment indicating merely a change in limited partners need be filed. A limited partnership shall pay to the secretary of state an original filing fee of *forty dollars ($40)* [~~twenty-five dollars ($25.00)~~] and a recording fee of *twenty dollars ($20)* [~~ten dollars ($10.00)~~] for recording the articles or certificate of partnership and accompanying amendments, and shall pay the same recording fee for recording subsequent amendments; and

(b) Designating a process agent, which shall have the same legal effect and be subject to the same requirements as a process agent for a foreign corporation under KRS 271A.555.

(2) The name of a foreign limited partnership shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name of the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, or any assumed name filed with the secretary of state pursuant to KRS 365.015, except that this provision shall not apply if the foreign limited partnership applying for a certificate of authority files with the secretary of state any one (1) of the following:

(a) A resolution adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter, or any assumed name filed with the secretary of state; or

(b) The written consent of such other corporation or holder of a reserved or registered name or assumed name holder to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or

(c) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right to such foreign limited partnership to the use of such name in this state.

(3) A limited partnership registering to do business in this state under subsection (1) of this section shall not be required to list the names of each limited partner.

Section 11. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; the real name of a domestic limited partnership is that name which includes the real name of at least one (1) of the general partners; the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271A.530.

(2) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name.

The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any.

A separate certificate shall be filed for each assumed name.

No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name or any foreign limited partnership name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate or partnership name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate or partnership name.

The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice-president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the secretary of state shall receive a fee of *twenty dollars ($20)* [~~ten dollars ($10.00)~~] for filing each certificate.

Section 12. KRS 423.010 is amended to read as follows:

The secretary of state may appoint as many notaries public as he deems necessary, who shall hold office for four years. Any person desiring to be appointed a notary public shall make written application to the secretary of state. The application shall be approved by the circuit judge, circuit clerk, county judge/executive, county clerk, justice of the peace or a member of the general assembly of the county of the residence of the applicant.

No officer shall charge or accept any fee for approving the application. A notary public must be eighteen years of age, a resident of the county from which he makes his application, of good moral character and capable of discharging the duties imposed upon him by this chapter, and the endorsement of the officer approving the application shall so state. The secretary of state, in his certificate of appointment to the applicant, must designate the limits within which the notary is to act. Before a notary acts, he must take an oath before the county judge/executive of his county that he will honestly and diligently discharge the duties of his office. He must in the same court give an obligation with good security for the proper discharge of the duties of his office. Every certificate of a notary public shall state the date of the expiration of his commission. The secretary of state shall give to each notary appointed a certificate of his appointment under the seal of the Commonwealth of Kentucky in lieu of a commission heretofore required to be issued to said notary by the governor of Kentucky, and receive a fee of *ten dollars ($10)* [~~five dollars ($5.00)~~] for the certificate.

Section 13. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state, or

b. There is a repeated pattern of intercourse between the father and mother in this state, or

c. Said intercourse is a tort or a crime in this state.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail a true copy to the secretary of state and shall also mail with the summons an attested copy of plaintiff's complaint. The secretary of state shall, within seven (7) days of receipt thereof in his office, mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested and shall bear the return address of the secretary of state. The clerk shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(c) The clerk mailing the summons to the secretary of state shall mail to him, at the same time, a fee of *ten dollars ($10)* [~~four dollars ($4.00)~~], which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 14. KRS 454.270 is amended to read as follows:

(1) Any nonresident operator or owner of any watercraft who accepts the privilege extended by the laws of this state to nonresidents to operate watercraft or have them operated within state shall, by such acceptance and by the operation of such watercraft within this state, make the secretary of state the agent of himself or his personal representative for the service of process in any civil action instituted in the courts of this state against the operator or owner, or the personal representative of the operator or owner, arising out of or by reason of any accident or collision or damage occurring within this state in which the watercraft is involved.

(2) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the secretary of state and shall also deliver with the summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(3) The sheriff serving the summons upon the Secretary of State shall pay to him, at the time of service, a fee of *ten dollars ($10)* [~~two dollars ($2.00)~~], which shall be taxed as costs in the action. The secretary shall keep a record of each summons, including the day and hour of service upon him.

(4) The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to appear and defend the action.

(5) This chapter extends the right of service of process upon nonresidents, and does not limit any other provisions for the service of process.

(6) The provisions of this chapter shall apply to any operator or owner of any watercraft who is a resident of this state at the time any accident or collision or damage occurs and who thereafter becomes a nonresident.

HB 572,AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) A criminal justice statistical analysis center is hereby created as part of the attorney general's office of Kentucky.

(2) The attorney general of Kentucky may, by memorandum of agreement, provide for the operation of a criminal justice statistical analysis center by the urban studies center of the college of urban and public affairs, university of Louisville, under the authority of the attorney general. The criminal justice statistical analysis center shall provide its reports and recommendations to the governor through the office of the attorney general.

(3) The criminal justice statistical analysis center shall:

(a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky by:

1. Conducting periodic needs assessments of criminal justice agencies;

2. Analyzing offender-based tracking data; and

3. Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky;

(b) Increase storage capacity and enhance accessibility of criminal justice statistical data by:

1. Assisting in establishing a statewide computerized data base; and

2. Maintaining selective criminal justice data sets at the university of Louisville for ongoing analysis and dissemination;

(c) Increase the ability of statistical users to translate data and research results into practice by:

1. Publishing research results and statistical data that are requested by criminal justice agencies;

2. Conducting conferences and workshops on the use of statistical information; and

3. Establishing a statewide statistical association;

(d) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and

(e) Strengthen the relationship between the Kentucky criminal justice agencies and the national bureau of justice statistics, U.S. department of justice, by:

1. Providing justice statistics to the bureau of justice statistics as required; and

2. Serving as a clearinghouse for bureau of justice statistics materials.

(4) The office of the attorney general may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this Act. Further, the office of the attorney general may employ such employes as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 2. The general assembly confirms Executive Order 84-492 which establishes a criminal justice statistical analysis center.

HB 592, AN ACT providing for the establishment of my old Kentucky home advisory commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) My old Kentucky home advisory commission is hereby established to provide continuing attention to the maintenance, furnishings and repairs of my old Kentucky home house museum, as well as to any other additions made, after this Act takes effect, to the grounds of my old Kentucky home state park. The commission shall be attached to the department of parks for administrative purposes.

(2) The commission shall consist of eleven (11) members. It is recommended that one (1) member shall be the park superintendent of my old Kentucky home state park, one (1) shall be a representative of the Kentucky heritage council, one (1) shall be a representative of the Kentucky historical society, one (1) shall be a representative of the office of historic properties, one (1) shall be a representative of the commissioner of the department of parks, and the remainder of the membership shall be selected from private citizens interested in historic properties with at least two (2) members who are residents of Nelson county.

(3) The public members of the commission shall be appointed by the governor. Four (4) members shall serve for terms of four (4) years and two (2) members shall serve for terms of two (2) years. Representatives of state government shall serve terms concurrent with holding their respective offices.

(4) The officers of the commission shall consist of a chairman and vice-chairman, who shall be elected by the membership and a secretary who shall be responsible for the keeping of minutes and serve as staff to the commission. The park superintendent at my old Kentucky home state park shall serve as secretary to the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) There shall be no compensation for serving on the commission, but the members shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties for the commission.

(6) The commission shall meet at least once a year or whenever called in to session by the chairman, or at the request of the governor, or any two (2) members to the chairman.

(7) The commission shall examine the house and shall require maintenance of inventory records, approve any major changes to the house and shall make recommendations to the department of parks through the park superintendent. The commissioner of the department of parks shall review and approve those recommendations based on funds available.

(8) There is established in the state treasury "my old Kentucky home endowment fund" which shall be administered by the park superintendent at my old Kentucky home state park under the supervision of the commissioner of the department of parks and pursuant to the recommendations of the my old Kentucky home advisory commission. The fund may receive state appropriations, federal funds and private donations. The fund shall be used for carrying out the functions of the commission.,

HB 608, AN ACT relating to telecommunicators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, law enforcement telecommunicator means any full-time employe, sworn or civilian, who is employed to dispatch emergency services units by means of radio communications or to operate teleprocessing equipment associated with law information network of Kentucky, which is part of or administered by the state or any political subdivision.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The justice cabinet shall determine that all applicants for admission to the telecommunicator training program:

(1) Are citizens of the United States and have reached the age of majority;

(2) Hold high school diploma or the equivalent;

(3) Have not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the department of state police and to the federal bureau of investigation identification division, and by such other investigations as required by the applicant's place of employment; and

(4) Are free of any physical, emotional or mental condition which might adversely affect their employment performance.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The basic course offered by the training program shall consist of not less than forty (40) hours of instruction or training and shall consist of subjects appropriate for the basic training of law enforcement telecommunicators in the technique of emergency services communications. The Kentucky law enforcement council shall approve all training curriculum and instructions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) No person shall receive an official appointment on a permanent basis as a law enforcement telecommunicator to any law enforcement agency in this state, unless such person has previously been awarded a certificate by the secretary of justice attesting to such person's satisfactory completion of an approved law enforcement telecommunicator basic training program. Every person who is employed, after the effective date of this Act as a law enforcement telecommunicator by any law enforcement agency in this state shall forfeit his position as such unless, within twelve (12) months from the date of his employment, he satisfactorily completes a basic training program and is awarded a certificate attesting thereto. The secretary of justice shall waive the training requirements listed in this section for all law enforcement radio dispatchers who have served continuously for one (1) year immediate prior to the effective date of this Act and shall award each such law enforcement telecommunicator a certificate. Notwithstanding the above, any person employed on or after the effective date of this Act regardless of prior experience as a law enforcement telecommunicator shall successfully complete the basic training program.

(2) All telecommunicators, whether originally employed before or after the effective date of this Act, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours duration at a school certified or recognized by the Kentucky law enforcement council.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The secretary of justice shall with the approval of the Kentucky law enforcement council waive the basic telecommunicator training program and certify applicants who furnish evidence of satisfactory completion of a basic law enforcement telecommunicator training program which, in the council's opinion, is comparable to that of the training program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The justice cabinet shall maintain a roster of all certified law enforcement telecommunicators.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

This Act shall be administered by the secretary of justice, who shall issue such administrative regulations as necessary regarding training, in-service training, and telecommunications practices.

The Committee Amendment No. 1 to HB 608 is as follows:

Amend printed copy of HB 608:

On page 1, line 5, by deleting the words "*emergency services*" and inserting in lieu thereof, the words "*law enforcement*".

HJR 28, A JOINT RESOLUTION designating Kentucky's Official Oil Field Museum in Beattyville, and directing the Tourism Cabinet to include the museum in its promotional maps and materials.

WHEREAS, the oil industry is important to the economy and character of the Kentucky oil fields; and

WHEREAS, Lee County has been producing oil since the early part of the century, and consistently ranks among the top five producing counties in the state; and

WHEREAS, Kentucky's only Oil Field Museum, established by the Beattyville Kiwanis Club in Beattyville, gives tourists and local citizens alike an opportunity to learn about the region's oil fields; and

WHEREAS, the Oil Field Museum offers an additional attraction to tourists visiting this scenic part of the state;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Oil Field Museum in Beattyville, Kentucky is hereby designated to be the Official State Oil Field Museum.

Section 2. The Tourism Cabinet is directed to provide a brochure or leaflet concerning the Oil Field Museum for distribution at its tourist information center.

The Tourism Cabinet is directed to include the Oil Field Museum in its general promotional literature on the state and region, as appropriate.

The Committee Amendment No. 1 to **HJR** 28 is as follows:

Amend printed copy of **HJR** 28:

On page 1, line 4, by deleting the word "directed" and inserting in lieu thereof, the word "requested"

HCR 65, A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment for submission to the states, to require that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment for submission to the states.

WHEREAS, the annual national deficit exceeds two hundred billion dollars and the national debt limit exceeds two trillion dollars; and

WHEREAS, the national deficit is rapidly escalating with each passing year as expenditures repeatedly exceed available revenues; and

WHEREAS, Article V of the Constitution of the United States provides that amendments to the constitution may be proposed by the Congress when two-thirds of both houses deem it necessary, or that Congress shall call a constitutional convention upon the application of two-thirds of the several states;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States of America is hereby petitioned to adopt an amendment to the Constitution of the United States, for submission to the states for ratification requiring that the federal budget be balanced.

Section 2. That this body, in the alternative pursuant to Article V of the Constitution of the United States, petitions the Congress of the United States of America to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring that the federal budget be balanced.

Section 3. That if Congress adopts an amendment to the Constitution of the United States requiring a balanced federal budget prior to two-thirds of the states making application for a constitutional convention, then this application for a constitutional convention shall no longer be of any force and effect.

Section 4. That this application for a constitutional convention be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to the specific and exclusive purpose of this application.

Section 5. That the Secretary of State of this Commonwealth is directed to send copies of this concurrent resolution to the Secretary of State of the United States, presiding officers of both houses of the legislature of each of the other states in the union, the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and the members of Congress from the Commonwealth of Kentucky.

The Committee Substitute to HCR 65 is as follows:

HCR 65, A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment for submission to the states, to require that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment for submission to the states.

WHEREAS, the annual national deficit exceeds two hundred billion dollars and the national debt limit exceeds two trillion dollars; and

WHEREAS, the national deficit is rapidly escalating with each passing year as expenditures repeatedly exceed available revenues; and

WHEREAS, Article V of the Constitution of the United States provides that amendments to the constitution may be proposed by the Congress when two-thirds of both houses deem it necessary, or that Congress shall call a constitutional convention upon the application of two-thirds of the several states;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States of America is hereby petitioned to adopt an amendment to the Constitution of the United States, for submission to the states for ratification requiring that for each fiscal year the President of the United States submit and the Congress of the United States adopt a balanced federal budget.

Section 2. That it is the sense of this body that the lack of a balanced federal budget is a premier issue in this nation, and the sense of this body is that if an amendment to the United States Constitution providing for a balanced federal budget is not submitted to the states for ratification by January, 1988, then this body will join in the call for a constitutional convention for the limited purpose of proposing a balanced federal budget amendment to the United States Constitution.

Section 3. That the Secretary of State of this Commonwealth is directed to send copies of this concurrent resolution to the Secretary of State of the United States, presiding officers of both houses of the legislature of each of the other states in the union, the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and the members of Congress from the Commonwealth of Kentucky.

SB 2, AN ACT relating to the Kentucky Bicentennial Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise, "commission" means the Kentucky Bicentennial Commission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the executive branch of state government a Kentucky Bicentennial Commission. The commission shall consist of thirty (30) members appointed by the governor. Members shall serve for a term of three (3) years and shall be eligible for reappointment and shall serve until a successor is appointed and qualified.

(2) The commission and the term of members appointed to the commission shall expire December 31, 1992.

(3) The commission shall be attached to the office of governor of the Commonwealth of Kentucky for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Kentucky Bicentennial Commission shall:

(1) Prepare an overall program to include specific plans for celebrating in 1992 the two hundredth anniversary of Kentucky's admission as the fifteenth state of the United States of America;

(2) Select persons and events to be commemorated. In preparing its plans and programs, the commission shall give consideration to any plans advanced by civic, patriotic, historical or educational groups, and cooperate with them in all possible ways. The commission may designate special committees with representation from such groups to plan and conduct specific programs;

(3) Encourage the location and presentation of books, documents, manuscripts, letters, relics and other materials pertaining to the settlement of Kentucky and its attainment of statehood; and

(4) Prepare on or before November 1, 1987, and each year thereafter a complete report of the commission's activities and plans for the celebration in 1992.

SECTION 4. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The commission may:

(1) Solicit and accept grants or other funds or property from any available source, public or private;

(2) Employ such staff as it deems necessary;

(3) Procure office space and supplies necessary to enable it to effectively carry out the planned celebrations;

(4) Enter into such contractual and promotional agreements necessary to effectively stimulate a statewide program of celebrations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) The chairman of the commission and nine (9) of its members selected by the commission, shall constitute an executive committee which shall act for the commission in the formulation, direction and execution of its policies.

(2) Meetings of the executive committee shall be called by the chairman of the commission, who shall be appointed by the governor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

Neither commission members nor the chairman shall receive a per diem salary for duties performed as a member of the commission, but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties.

SB 10, AN ACT proposing to amend the Constitution of Kentucky relative to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 91 of the Constitution of Kentucky be amended to read as follows:

A treasurer, auditor of public accounts, register of the land office, commissioner of agriculture, labor and statistics, secretary of state *and* [~~,~~] attorney-general [~~and superintendent of public instruction~~], shall be elected by the qualified voters of the state at the same time the governor is elected, for the term of four (4) years, each of whom shall be at least thirty (30) years of age at the time of his election, and shall have been a resident citizen of the state at least two (2) years next before his election. The duties of all these officers shall be such as may be prescribed by law, and the secretary of state shall keep a fair register of and attest all the official acts of the governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either house of the general assembly. The officers named in this section shall enter upon the discharge of their duties the first Monday in January after their election, and shall hold their offices until their successors are elected and qualified.

Section 2. It is proposed that Section 93 of the Constitution of Kentucky be amended to read as follows:

The treasurer, auditor of public accounts, secretary of state, commissioner of agriculture, labor and statistics, attorney general, [~~superintendent of public instruction~~] and register of the land office shall be ineligible to re-election for the succeeding four years after the expiration of the term for which they shall have been elected. The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior state officers, not specifically provided for in this Constitution, may be appointed or elected, in such manner as may be prescribed by law, for a term not exceeding four (4) years, and until their successors are appointed or elected and qualified.

Section 3. It is proposed that Section 95 of the Constitution of Kentucky be amended to read as follows:

The election under this Constitution for governor, lieutenant governor, treasurer, auditor of public accounts, register of the land office, attorney-general, secretary of state, [~~superintendent of public instruction,~~] and commissioner of agriculture, labor and statistics, shall be held on the first Tuesday after the first Monday in November, eighteen hundred and ninety-five, and the same day every four (4) years thereafter.

Section 4. It is proposed that Section 183 of the Constitution of Kentucky be amended to read as follows:

The general assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state. *There shall be a state board of education which shall consist of thirteen (13) members whose duties and qualifications shall be prescribed by statute. The governor shall appoint one (1) board member from each of the seven (7) supreme court districts and six (6) members at large to begin their respective terms on July 1, 1987. Individual appointments shall be subject to confirmation by majority vote of the senate during the first regular, special or organizational session of the General Assembly subsequent to the appointment. Appointments not confirmed shall be void and the governor shall make an additional appointment to serve the remainder of the particular term, subject to confirmation by the senate. Of the original thirteen (13) appointments, three (3) shall be for six (6) year terms, two (2) for five (5) year terms, two (2) for four (4) year terms, two (2) for three (3) year terms, two (2) for two (2) year terms, and two (2) for one (1) year terms, at the designation of the governor. Thereafter, at the expiration of each term, a member of the state board of education shall be appointed for a six (6) year term. Board members shall be eligible to serve no more than two (2) consecutive terms. The state board of education shall appoint a superintendent of public instruction, who shall act as executive officer for the board and perform such duties and possess such qualifications as may be provided by the board or by statute. The superintendent shall serve pursuant to an employment contract which may be executed in a maximum term of five (5) years. An individual may, at the pleasure of the board, serve consecutive contractual periods of employment as superintendent. The superintendent of public instruction shall serve at such salary and allowances as may be fixed by the board and may be removed for cause to be prescribed by law.*

Section 5. It is further proposed as a part of this amendment that the superintendent of public instruction serving in office at the time of the ratification of this amendment, shall continue in office until his elective term shall expire with the first appointed superintendent to take office at the expiration of the elected superintendent's term.

Section 6. It is further provided as a part of this amendment and as a schedule of transitional provisions for the purposes of this amendment, any other provision of the Constitution of Kentucky to the contrary notwithstanding, that:

1. The first appointments of the members of the State Board of Education shall be confirmed by the Senate in the 1987 organizational session of the General Assembly.

2. The State Board of Education that takes office in July, 1987 shall appoint an acting Superintendent of Public Instruction to take office the first Monday in January, 1988.

3. The terms of board members serving in office on June 30, 1987 shall expire on that date.

4. All statutes relating to the State Board of Education or the Superintendent of Public Instruction in force on the first Monday in January, 1988, as then constituted, not inconsistent therewith, shall remain in full force until altered or repealed by the General Assembly. The provisions of all statutes which are inconsistent with this amendment shall cease on the first Monday in January, 1988.

Section 7. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution of Kentucky and under KRS 118.415.

SB 13, AN ACT relating to capital construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The governor shall include in the executive branch budget recommendation and in the draft joint budget resolution for the executive branch submitted to each regular session of the general assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1980 and for each biennium thereafter, a recommended state capital construction program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

(i) The agency and purpose for which it will be used;

(ii) The justification for the project;

(iii) Its estimated completion date;

(iv) The total estimated cost of completing the project;

(v) The estimated cost of the project during the biennium;

(vi) The recommended sources of funds for the entire project; and

(vii) The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The joint budget resolution for the executive branch shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs (v), (vi) and (vii) of subsection (2)(b) of this section.

(4) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in the executive branch budget recommendation and in the joint budget resolution for the executive branch enacted by the general assembly, except as provided in KRS 45.770 and 45.780.

(5) The recommended program for the purchase of major items of equipment shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

(i) The agency and purpose for which it will be used;

(ii) The justification for the purchase;

(iii) The estimated cost of the item;

(iv) The recommended sources of funds; and

(v) The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(6) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The joint budget resolution for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs (iii), (iv) and (v) of subsection (5)(b) of this section.

(7) When the general assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the capital construction program. Moneys appropriated for that project or item of equipment but not allotted, and moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(8) Projects and major items of equipment disapproved under the preceding subsection shall be terminated.

(9) During any biennium beginning July 1, 1980 and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the executive branch budget recommendation and in the appropriation act or acts enacted by the general assembly and authorizing the purchase, except as provided in subsection (10) of this section and in KRS 45.770 and 45.780.

(10) A major item of equipment to be used for medical, scientific or research purposes, excluding computer equipment and aircraft, may be *authorized* [~~purchased~~] even though it is not specifically listed in the biennial budget report and appropriation act or acts enacted for the current biennium subject to the following conditions and procedures:

(a) Moneys specifically *budgeted and* appropriated by the general assembly for another purpose shall not be realloted for expenditure on the item; *moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;*

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the capital construction and equipment purchase oversight committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(11) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically *budgeted and* appropriated by the general assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; *moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;* and

(c) The finance and administration cabinet shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(12) The general assembly may provide in a budget bill for the capital construction and equipment purchase contingency fund to be used to advance funds to projects authorized to be financed by bonds, and to finance feasibility studies for projects which may be contemplated for future funding.

(13) On or before September 1, the secretary of the finance and administration cabinet shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

(i) The project phase;

(ii) The project account number, project name, and any other term employed to identify the project or major item of equipment;

(iii) The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

(iv) A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

(v) The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

(vi) Total expenditure on the project or major item of equipment;

(vii) The current estimated completion cost, including the amount required for annual inflation;

(viii) A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available;

(ix) Justification for the project or major item of equipment;

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

SB 51, AN ACT relating to reorganizing the Justice Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Order 85-387 reorganizing the Justice Cabinet, Department of Criminal Justice Training as follows:

(1) Change the name of the Division of Law Enforcement to the Training Division.

(2) Change the name of the Division of Legal Services to the Administrative Division.

SB 53, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.560 is amended to read as follows:

(1) There is hereby created the flood control advisory commission, which shall be composed of fifteen (15) members as follows:

(a) The governor shall appoint six (6) members: two (2) state legislators, one (1) from the senate and one (1) from the house of representatives; two (2) mayors; and two (2) county judges/executive; and

(b) The legislative research commission shall appoint nine (9) members, one (1) from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland.

(2) Each member shall serve a four (4) year term, except the first commission members appointed by the legislative research commission who shall serve terms as follows:

(a) Three (3) members shall serve for terms of two (2) years from the date of appointment;

(b) Three (3) members shall serve for terms of three (3) years from the date of appointment; and

(c) Three (3) members shall serve for terms of four (4) years from the date of appointment.

(3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant and the office shall be filled as provided by subsection (3) of this section.

(5) Two (2) of the commission members shall be elected by the commission to serve on the water resources authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.

(6) The commission shall annually elect one of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be nine (9) members, and a majority of the members present at a meeting may take action on any matter legally before it.

(7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.

(8) The commission shall employ an executive director, who shall be qualified on the basis of administrative ability in water resources management. The commission, on the advice of the executive director, shall employ additional staff, as required, who are knowledgeable in such areas as hydrology, geology, engineering, municipal planning, regional planning, economics, and secretarial science. The commission may engage, as needed, the professional services of individuals on a contractual basis.

(9) The commission shall be attached for administrative purposes to the *natural resources and environmental protection cabinet* [~~office of the governor~~].

(10) The commission shall receive an annual appropriation from the general fund and shall prepare a line-item budget, which shall appear as a line item in the executive branch biennial budget recommendation and in the biennial joint budget resolution.

(11) The commission may receive private funds, federal grants, and discretionary funds from the natural resources and environmental protection cabinet.

(12) The commission shall issue rules and regulations as necessary to control internal procedures. The commission shall establish by regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

Section 2. The general assembly confirms executive order 84-1062 transferring the flood control advisory commission in its entirety from the office of the governor to the natural resources and environmental protection cabinet to the extent it is not otherwise confirmed by this Act.

SB 57, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the Kentucky Employes Retirement System by Executive Order 85-833 by:

(1) Creating the division of investments which shall be headed by a division director appointed pursuant to KRS 12.050. The division shall be responsible for purchases and sales of all investments in accordance with policies adopted by the board of trustees and direction provided by the investment committee. The division shall maintain detailed records of each investment held, produce appropriate timely reports of such, and shall work to ensure that all pertinent transactions are processed when market conditions dictate.

(2) Creating the division of employe benefits which shall be headed by a division director appointed pursuant to KRS 12.050. The division shall be responsible for member counseling, orientation programs for all participating employe systems, and maintenance of retiree files.

(3) Creating the division of data processing which shall be headed by a division director appointed pursuant to KRS 12.050. The division shall be responsible for forecasting hardware, software, and personnel necessary to meet future requirements, file maintenance systems operations, periodic reports, and production of financial statements.

(4) Creating the division of accounting which shall be headed by a division director appointed pursuant to KRS 12.050. The division shall be responsible for proper accounting for all monies received and disbursed for all administered funds, and for all KERS employe payroll functions.

Section 2. The General Assembly confirms the reorganization of the Kentucky Employes Retirement System by Executive Order 85-833, issued November 1, 1985, to the extent it is not otherwise confirmed by this Act.

SB 158, AN ACT relating to the Kentucky employes retirement system, the county employes retirement system and the state police retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the department of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS *61.555* [~~16.541~~];

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth. *Twelve (12) months of current service in the system is required to validate prior service*;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the department of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system, a member of the county employes retirement system or a member of the Kentucky employes retirement system covered by this section with twenty (20) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; [~~and~~]

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter *18A* [~~18~~] as provisional full-time, probationary full-time and permanent full-time; *and*

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means such disability as results in an employe's

total incapacity to continue as an employe in a hazardous position, but such employe is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky state police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers.

(2) No person who is age thirty-one (31) or over shall be eligible to become an employe of the Kentucky state police.

(3) Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 3. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1968, contribute for each pay period for which he receives compensation, seven per cent (7%) of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). [~~However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code,~~] These contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 16.505 to *16.652* [~~16.645~~] in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 4. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain, or the said beneficiary may elect to receive the beneficiary social security adjustment payment under subsection *(9)* [~~(7)~~] of KRS 61.635 *or said beneficiary may elect the actuarial equivalent refund.*

(2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable

monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain, or the said beneficiary may elect to receive the beneficiary social security adjustment payment under subsection *(9)* [~~(7)~~] of KRS 61.635 *or said beneficiary may elect the actuarial equivalent refund.*

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain, or the said beneficiary may elect to receive the beneficiary social security adjustment payment under subsection *(9)* [~~(7)~~] of KRS 61.635 *or said beneficiary may elect the actuarial equivalent refund.*

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4); then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined; or the said beneficiary may elect to receive the beneficiary social security adjustment payment under subsection *(9)* [~~(7)~~] of KRS 61.635.

(5) If the member, subject to subsection (1), (2), (3) or (4) of this section had on file a written designation of multiple beneficiaries, or his estate or trust or trustee, then said multiple beneficiaries by consensus or the administrator or executor of said estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3) or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund:

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate or trust or trustee, the multiple beneficiaries by consensus or trustee or executor or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.

(7) In the case of a single beneficiary, the highest monthly benefit determined under subsection (1), [~~or~~] (2), [~~or~~] (3), [~~or~~] (4) *or (6)* of this section for a life annuity or for payments for *sixty (60) months certain or for payments for* one hundred twenty (120) months certain *or for the actuarial equivalent refund or for the beneficiary social security payment* shall be tendered to the beneficiary. *In the case of designation of multiple beneficiaries, an estate or trust or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5) or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries or trustee, or administrator or executor of the estate.*

Section 5. KRS 16.591 is amended to read as follows:

(1) In the event disability is partial as provided in subsections (1) and (2) of KRS 16.586 and as determined by the board, a member *in service with five (5) years of service credit* shall be eligible to receive benefits under subsection (2) of KRS 16.581 except that the monthly retirement allowance shall be reduced by his disability ratio.

(2) In the event disability is partial as provided in subsection (3) of KRS 16.586 and as determined by the board, the retirement allowance of such member shall be reduced by his disability ratio. Reduced payments shall begin in the month following the termination of payments under total and permanent disability.

(3) [~~In the event that disability occurred as a direct result of an "act in the line of duty," and the board determines that the disability is partial but at the time of determination the board assigns a disability ratio of one hundred percent (100%), then dependent children of the member shall be eligible for benefits provided pursuant to KRS 16.581(1)(b).~~

~~(4)~~] No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4)[~~(5)~~] In lieu of the allowances provided by subsections (1) and (2) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he qualifies therefor.

Section 6. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702; [~~and~~]

(24) Death benefit, as provided by KRS 61.705*;*

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615; and

(26) Service credit, armed forces, as provided by KRS 61.555.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and KRS 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. *Twelve (12) months of current service in the system is required to validate prior service*;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), together with

interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except that for members of the general assembly it shall mean an assumed salary of $27,500 per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the general assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8) except the employe shall pay a single payment of 50% of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system; and

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system.

Section 8. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating department after the date such department first participates in the system;

(2) All persons who are employes of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.510 to *61.705* [~~61.692~~];

(3) All persons who are employes of any credit union whose membership is limited to employes of state government;

(4) All persons who were professional staff employes of the council on higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964 respectively and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employes of the Kentucky authority for educational television on and after July 1, 1974; [~~and~~]

(6) All persons who are employes of the teachers' retirement system except employes who are required to participate under the teachers' retirement system under KRS 161.220(4)(d)*; and*

(7) Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 9. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is drawn by the state treasurer:

(a) Each member *may* [~~shall~~] designate *one (1) or more persons as* a principal beneficiary *or beneficiaries* and *one (1) or more persons as* [~~may designate a~~] contingent beneficiary *or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary. In the event multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive. In the event percentages are not indicated, payments will be disbursed equally to the named beneficiaries. In the event of death of any or all multiple beneficiaries, the deceased beneficiary's estate shall receive a lump sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.* This designation shall remain in full force and effect until changed by the member except a final divorce decree terminates an ex-spouse's status as beneficiary, unless the member redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;

(b) In the event the death of the principal beneficiary *or beneficiaries precede* [~~precedes~~] the death of the member, or in the event the principal beneficiary is terminated *by a divorce decree* [~~as provided in subsection (a) of this section~~], the contingent beneficiary *or beneficiaries become* [~~becomes~~] the principal beneficiary *or beneficiaries*;

(c) In the event the member is survived by his principal beneficiary *or beneficiaries* who subsequently *die* [~~dies~~] prior to filing the necessary forms prescribed under authority of KRS 61.590 because of circumstances rendering such person unable to act, the contingent beneficiary shall become the principal beneficiary *or beneficiaries*; and

(d) In the event the deaths of *both* the principal beneficiary *or beneficiaries* and the contingent beneficiary *or beneficiaries* precede the death of the member, the estate of the member becomes the beneficiary provided the member has not filed a notification of retirement with the board.

(2) When the first retirement allowance payment is drawn by the state treasurer and subsequent thereto:

(a) The beneficiary designated by the member on his notification of retirement, *which shall be one (1) person, his estate or a trust or trustee,* supersedes the designation of any and all previous beneficiaries. If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been drawn by the state treasurer, the member may designate another beneficiary on his notification of retirement; and

(b) A member shall not have the right to change his beneficiary after the first benefit payment has been drawn by the state treasurer. The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member or if the retired member had designated a spouse and they were divorced on the date of the retired member's death.

(3) In the event a beneficiary *or beneficiaries are* [~~is~~] convicted of *any* [~~a~~] crime *which prohibits that person or persons from receiving the benefits under any other statute, then in that event the beneficiary or beneficiaries shall not be eligible for any of said benefits* [~~against the member, the beneficiary shall not be eligible for any benefits from the member's account,~~] and *the remaining beneficiary or beneficiaries or, if none,* the member's estate shall become the beneficiary.

Section 10. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement plan or legislators' retirement plan or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(5) An employe of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, or any former county employe who is an employe of a department participating in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the *service* [~~services~~] he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(6) Effective January 1, 1975, service credit obtained under subsections (1) to (5) of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary if the member does not obtain for service performed six (6) months current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan, or as an employe of a parted employer.

(7) Any employe of a county participating in the county employes retirement system, or any employe of a department participating in the Kentucky employes retirement system, who has obtained for service performed six (6) months current service credit in either retirement system, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county employes retirement system or the Kentucky employes retirement system for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes or Kentucky employes retirement system. The delayed contribution payment shall not be picked up, as described in KRS *61.560(4)* [~~61.540(4)~~], by the employer.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540(2).

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2).

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsections (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640.

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.505 to 16.652 or 61.510 to 61.705 or 78.510 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employes of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1986, any employe of a county participating in the county employes retirement system, or any employe participating in the Kentucky employes retirement system, or any employe participating in the state police retirement system may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section if the member is contributing to a system other than the system or systems from which he is retired.

Section 11. KRS 61.558 is amended to read as follows:

(1) *An employe participating in* [~~Upon service retirement, a member of~~] the Kentucky employes' retirement system may obtain credit for all or any part of the service *in a regular full-time position* otherwise creditable under the county employes retirement system, the teachers' retirement system, *state police retirement system* or in the service of the United States government, *other than service in the armed forces,* for which service credit is not otherwise given *by paying to the system a delayed contribution payment*[~~, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the Kentucky employes' retirement system by virtue of such additional service credit~~]. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these *four (4)* [~~three (3)~~] retirement systems.

Section 12. KRS 61.560 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period for which he receives compensation four percent (4%) of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections *(13)* [~~(10)~~] and *(14)* [~~(11)~~] of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.510 through *61.705* [~~61.702~~] notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employe for each and every payroll period the contribution payable by each such employe as provided in KRS 61.510 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.510 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). [~~However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code,~~] These contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.510 to 61.705 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 13. KRS 61.569 is amended to read as follows:

(1) A reinstated employe who has been ordered reinstated by the personnel board under authority of KRS 18A.095 *or by court order or by order of the human rights commission* [~~and accepts employment by a participating employer~~] shall tender to the retirement board the member contribution he would have paid on the creditable compensation he would have earned as defined under KRS 18A.105 had he not been dismissed. The employer shall pay the employer contributions as defined under KRS 18A.105 on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member contributions are not paid.

Section 14. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board; the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been

provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. *Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.* Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. *Payments made by the employe under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer.* If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

Section 15. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1984, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and sixty-five hundredths percent (1.65%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than $240 multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph (c), and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512)*; and* [~~.~~]

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is *one dollar ($1)* [~~twenty-five cents (25 cents)~~] greater or less than the amount of the initial retirement payment.

Section 16. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated or if the member is employed by a participating employer in an employment status that does not require the member to participate in the system, the member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employe contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received. [~~A member who has been remployed as a contributing member within the same system from which the refund has been requested shall not be eligible for a refund.~~] Payments made under this section shall be in lieu of any other benefits due for such period of service under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 and 78.510 to 78.852, unless such period of service is regained as provided under KRS 61.552. Payments of picked up employe contributions shall be subject to state and federal tax as appropriate.

Section 17. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.505 to 16.652 and 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852. The amount of any such optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(3) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance

during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(5) Life with ten (10) years certain. The member *less than age seventy-six (76)* may elect to receive a monthly retirement allowance during his lifetime which shall quarantee payments for one hundred twenty (120) months. If the member should become deceased before receiving payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred twenty (120) months period, except if the estate *or trust* is designated as beneficiary the executor or administrator of the estate *or trustee of the trust* may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator *or trustee* may elect to continue the remaining monthly payments to the estate *or trust* of the member.

(6) *Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member should become deceased before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period, except if the estate or trust is designated as beneficiary the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.*

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member should become deceased before receiving payments for two hundred and forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two hundred and forty (240) months period, except if the estate or trust is beneficiary, the executor or administrator of the estate or the trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(8) Social security adjustment options. These options are available to any member who has not attained age sixty-two (62) as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, provided the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(9)[~~(7)~~] Beneficiary social security adjustment option. This option is available to the beneficiary of a deceased member where such beneficiary has not attained age sixty (60), and is eligible to receive social security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. Such payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(10)[~~(8)~~] *Pop-up Option. The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person. If the beneficiary dies prior to the member, the member's retirement allowance will increase to the amount that would have been payable as a single life annuity* [~~Partial deferred. The member may elect to receive during his lifetime a decreased retirement allowance, as determined by the member, from his effective retirement date through the month he attains age sixty-two (62), with an increased retirement allowance thereafter; provided, however, that the member has one election to increase his allowance prior to attainment of age sixty-two (62) on any annual anniversary date prior to attaining age sixty-two (62)~~].

(11)[~~(9)~~] *Actuarial equivalent refund. The member may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).*

(12) In addition to the optional forms of annuities permitted under this section the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(13)[~~(10)~~] The other provisions of this section notwithstanding, the beneficiary of a retired member of the general assembly shall, after the member's death, receive sixty-six and two-thirds percent (66 2/3%) of the member's retirement allowance during his or her lifetime if the member of the general assembly has elected this option and has made contributions in accordance with subsection *(14)*[~~(11)~~] of this section and of KRS 61.560. The retirement allowance of the retired member of the general assembly shall not be actuarially reduced to provide for this survivor benefit.

(14)[~~(11)~~] A member of the general assembly who wishes to obtain the survivorship option specified in subsection *(13)*[~~(10)~~] of this section shall so notify the Kentucky retirement systems:

(a) Within thirty (30) days after first becoming a member of the general assembly if he is not a member of the general assembly on July 15, 1980; or,

(b) Within thirty (30) days after July 15, 1980 in the case of persons who are members of the general assembly on July 15, 1980.

(15)[~~(12)~~] The board of directors of the Kentucky retirement systems shall prepare and forward to members of the general assembly a form on which a member may elect the option provided for in subsections *(13)*[~~(10)~~] and *(14)*[~~(11)~~] of this section.

(16) The options described in subsections (2), (3), (4), (8)(b), (10) and (13) of this section shall be extended to the member only where the designated beneficiary is a person.

Section 18. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employe by a participating agency shall have his retirement payments suspended for the duration of such reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employe contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during such reemployment except where monthly payments were not suspended as provided in subsection (1) of this section *or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1),* and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, provided he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) In the event the retired member is paid suspended payments retroactively in accordance with this section, employe contributions deducted during his period of reemployment, if any, shall be refunded to the retired employe and no service credit shall be earned for the period of reemployment.

(c) In the event the retired member is not eligible to be paid suspended payments for his period of reemployment as an employe, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined.

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595.

3. If the retired member initially retired prior to his normal retirement date his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment.

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3; provided, however, the member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691.

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except such retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty (50) cents of each dollar earned during reemployment over the maximum permissible earnings.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the personnel board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the personnel board under authority of KRS 18A.095 *or by court order or by order of the human rights commission* and accepts employment by an agency participating in the Kentucky employes retirement system *or county employes retirement system* shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) In the event a retired hazardous position member or a member of the state police retirement system is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed in a nonhazardous position, the board is hereby authorized to waive or modify the foregoing provisions of this section and permit such person to receive a partial disability retirement allowance while accruing retirement benefits in a nonhazardous position.

Section 19. KRS 61.640 is amended to read as follows:

(1) If an employe who is of normal retirement age or greater is in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employe of less than normal retirement age is in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain *or the said beneficiary may elect the actuarial equivalent refund.*

(2) If a member not in the active employment of a participating agency, nor on official leave from such

agency, with the service and age prescribed in KRS 61.559(2) dies before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain *or the said beneficiary may elect the actuarial equivalent refund.*

(3) If a member, not in the active employment of a participating agency nor on official leave from such agency with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for *sixty (60) months certain or said beneficiary may elect the actuarial equivalent payable for* one hundred twenty (120) months certain *or the said beneficiary may elect the actuarial equivalent refund.*

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty per cent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty per cent (50%), and the actuarial equivalent payable for *sixty (60) months certain and* one hundred twenty (120) months certain *and the actuarial equivalent refund* shall be determined.

(5) *If the member, subject to subsection (1), (2), (3) or (4) of this section had on file a written designation of multiple beneficiaries, or his estate or trust or trustee, then said multiple beneficiaries by consensus or the administrator or executor of said estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3) or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.*

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate or trust or trustee, the multiple beneficiaries by consensus or trustee or executor or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, the highest monthly benefit determined under subsection (1), [~~or~~] (2), [~~or~~] (3), [~~or~~] (4) *or (6)* of this section for a life annuity or for payments for *sixty (60) months certain or for payments for* one hundred twenty (120) months certain *or for the actuarial equivalent refund or for the beneficiary social security payment* shall be tendered to the beneficiary. *In the case of designation of multiple beneficiaries, an estate or trust or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5) or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries or trustee, or administrator or executor of the estate.*

Section 20. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; [~~provided, however, that the board is not authorized to construct a building;~~] and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) *Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel* [~~Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel~~];

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.705 and *16.505* [~~16.510~~] to 16.652 and 78.510 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705 and *16.505* [~~16.510~~] to 16.652 and 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.510 to 61.705 and *16.505* [~~16.510~~] to 16.652 and 78.510 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS *16.505* [~~16.510~~] to 16.652 and 61.510 to 61.705 and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within *one hundred and twenty (120)* [~~ninety (90)~~] days of the board action.

Section 21. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705 and 16.505 to 16.652 and 78.510 to 78.852 or by the board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under KRS 61.510 to 61.705 and 16.505 to 16.652 and 78.510 to 78.852, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

(2) (a) Each employe requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employe's physical and mental condition.

(b) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employe's physicians with the request that the documents be filed with the board.

(c) The cost of a medical examination shall be paid by the employe. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office.

(d) The board shall select two (2) medical examiners who shall evaluate the medical evidence submitted by the employe's physician. The examiners shall recommend that disability retirement be approved, or that disability retirement be denied. A third medical examiner shall review the medical evidence when necessary to provide a consensus if the recommendations of the first two (2) medical examiners do not agree.

(e) If the medical examiners recommend that the employe be approved for disability retirement, the general manager shall proceed to make retirement payments in accordance with the retirement plan selected by the employe.

(f) If the medical examiners recommend that the employe be denied disability retirement, the general manager shall notify the board and the employe of this recommendation. The employe shall have the opportunity of furnishing additional medical evidence of total and permanent disability and any such additional evidence shall be submitted to the medical examiners. The additional medical information shall be submitted within one hundred and twenty (120) days after notification by the general manager. If additional information is not submitted within one hundred and twenty (120) days, the disability request will be voided.

(g) If the medical examiners recommend that the employe be denied disability retirement, the employe shall have one hundred and twenty (120) days in which to file an appeal of the medical examiners' decision in the Franklin Circuit Court. *No new or additional evidence shall be introduced in the Franklin Circuit Court, and the court shall hear the case upon the record as attested.*

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(3) Notwithstanding the foregoing provisions of this section the board is hereby authorized to pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners.

Section 22. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. *Twelve (12) months of current service in the system is required to validate prior service*;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

Section 23. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit *for employment in regular full-time positions* between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period.

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 95.767 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.767, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in KRS 78.530(3), and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

Section 24. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system, except that city managers or other appointed local government executives who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.510 to 78.852.

(3) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation.

(4) Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 25. KRS 78.605 is amended to read as follows:

(1) *An employe participating in* [~~Upon service retirement, a member of~~] the county employes' retirement system may obtain credit for all or any part of the service *in a regular full-time position* otherwise creditable under the Kentucky employes' retirement system, the teachers' retirement system, *the state police retirement system* or in the service of the United States government, *other than service in the armed forces,* for which service credit is not otherwise given, *by paying to the system a delayed contribution payment* [~~upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the county employes' retirement system by virtue of such additional service credit~~]. Such payments shall not be picked up as described in KRS 78.610(4).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these *four (4)* [~~three (3)~~] retirement systems.

Section 26. KRS 78.610 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period, for which he receives compensation four percent (4%) of his creditable compensation. Any other provisions of KRS 78.510 through 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employe for each and every payroll period subsequent to the date the county participated in the system, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employe contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). [~~However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code,~~] These contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe.

The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

SECTION 27. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) An employe participating in the state police retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, Kentucky employes retirement system, teachers' retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 16.545(4), by the employer.

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

SECTION 28. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) In the event hazardous disability occurs on or after August 1, 1986 as a direct result of an "act in line of duty," the member in service may retire on his disability retirement date and shall be eligible to receive retirement benefits as follows:

(a) For the disabled member, benefits as provided under subsection (2) of this section, except that there shall be no service requirement for eligibility except that the member be employed and the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay. However, total maximum dependent childrens' benefits shall not be greater than forty percent (40%) of the member's monthly final rate of pay.

(2) In the event hazardous disability is not a direct result of an "act in line of duty," the employe in service with five (5) years of service credit shall retire on his disability retirement date and shall be eligible to receive benefits under KRS 16.576(3) and (4) except that service credit shall be added to the employe's total service beginning with his last date of paid employment and continuing to his fifty-fifth (55th) birthday; however, the maximum service credit added shall not exceed the total service the employe had upon his last day of paid employment, and the maximum combined service credit for calculating his hazardous disability retirement allowance, including total service and added service, shall not exceed twenty (20) years, except when the member has accumulated total service of twenty (20) or more years, his total service shall be used in computing hazardous disability benefits.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4) In lieu of the allowance provided by subsection (1) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he qualifies therefor.

Section 29. KRS 16.543 is amended to read as follows:

(1) Employe contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the bureau of state police of the department of justice as an officer as defined in KRS 16.520. After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives

creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS *61.555* [~~16.541~~]; and

(b) A member on educational leave, approved by the department of personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 30. KRS 61.630 is amended to read as follows:

(1) Should a retired member who did not elect an optional retirement plan [~~or a retired member who elected the partial deferred option under KRS 61.635(8)~~] die at any time after retirement but before receiving total retirement allowances provided in KRS *16.505* [~~16.510~~] to 16.652 and 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 at least equal to his accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the properly designated beneficiary, if then living; otherwise, to the estate of the deceased retired member.

(2) Should a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS *16.505* [~~16.510~~] to 16.652 and 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the last deceased. In the event of the simultaneous death of the retired member and beneficiary, the estate of the retired member shall become the beneficiary.

(3) Should a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 die before receiving total retirement allowances provided in KRS *16.505* [~~16.510~~] to 16.652 and 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the beneficiary.

(4) Should a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS 16.578 or 61.640 or a beneficiary receiving a retirement allowance under the life with ten (10) years certain option selected by the member under KRS 61.635(5) or a beneficiary receiving a retirement allowance for the duration of ten (10) years certain as prescribed in Chapter 128, Section 4(6), Acts of the 1974 General Assembly die before receiving all payments under the plan, the executor or administrator of his estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

Section 31. KRS 16.541, Credit for service in United States armed forces, is repealed.

The Committee on Energy reported HB 444 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 444, AN ACT relating to the Public Service Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.160 is amended to read as follows:

(1) Under rules prescribed by the commission, each utility shall file with the commission, within such time

and in such form as the commission designates, schedules showing all rates *and conditions for service* established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

Section 2. KRS 278.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no change shall be made by any utility in any rate except upon *thirty (30)* [~~twenty (20)~~] days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. *However, the commission may, in its discretion, based upon a showing of good cause in any case, shorten the notice period from thirty (30) days to a period of not less than twenty (20) days.* The commission may order a rate change only after giving an identical notice to the utility. The commission may order the utility to give notice of its proposed rate increase to that utility's customers in the manner set forth in its regulations.

(2) The commission, upon application of any utility, may prescribe a less time within which a reduction of rates may be made.

Section 3. KRS 278.220 is amended to read as follows:

The commission may establish a system of accounts to be kept by utilities subject to its jurisdiction, or may classify utilities and establish a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. The system established shall conform as nearly as practicable to the uniform system of accounts prescribed by the National Association of *Regulatory Utility* [~~Railway and Utilities~~] Commissioners, except that the system established for telephone and telegraph companies shall conform as nearly as practicable to the system adopted or approved by the *Federal Communications Commission and the system established for gas and electric companies shall conform as nearly as practicable to the system adopted or approved by the Federal Energy Regulatory Commission* [~~Interstate Commerce Commission or other federal agency regulating telephone and telegraph companies~~].

Section 4. KRS 278.990 is amended to read as follows:

(1) Any officer, agent or employe of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of *this chapter* [~~KRS 278.010 to 278.450~~], or who procures, aids or abets any violation of those provisions by any such utility, shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than six (6) months, or both. If any such utility that is a private corporation violates any of the provisions of *this chapter* [~~KRS 278.010 to 278.450~~], or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any lawful requirement or order of the public service commission, the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000). Each act, omission or failure by an officer, agent or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission or failure of the utility.

(2) Actions to recover the principal amount due and penalties under *this chapter* [~~KRS 278.010 to 278.450 and this subsection~~] shall be brought in the name of the Commonwealth in the Franklin Circuit Court. Whenever any utility is subject to a penalty under *this chapter* [~~KRS 278.010 to 278.450 or this subsection~~], the public service commission shall certify the facts to its counsel, who shall bring an action for recovery of the principal amount due and the penalty. The commission may compromise and dismiss the action on terms approved by the court. The principal amount due shall be paid into the state treasury and credited to the account of the commission, and all penalties recovered in such actions shall be paid into the state treasury and credited to the general fund.

(3) Any utility that fails to pay an assessment as provided for by KRS 278.130 to 278.150 shall forfeit and pay to the state one thousand dollars ($1,000), and twenty-five dollars ($25.00) for each day it fails to pay the assessment, and shall not be released thereby from its liability for the assessment.

(4) Any utility that issues any securities or evidences of indebtedness, or assumes any obligation or liability in

respect to the securities or evidences of indebtedness of any other person, or makes any sale or other disposition of securities or evidences of indebtedness, or the proceeds thereof, for purposes other than the purposes specified in the order of the commission made with respect thereto under KRS 278.300, shall be fined not more than ten thousand dollars ($10,000).

(5) Any utility that violates any of the provisions of KRS 278.460 shall be fined not less than one hundred dollars ($100) for each offense.

(6) Any company that willfully fails to receive, transport and deliver oil or gas as required by KRS 278.490 shall, in addition to being liable in damages to the injured person, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and each day of willful failure shall constitute a separate offense.

(7) Any telephone company that refuses to make a connection with the exchange or lines of another company for a period of thirty (30) days after being ordered to do so by the public service commission under subsection (2) of KRS 278.530 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), to be recovered by indictment in the Franklin Circuit Court or in the circuit court of the county where the company requesting the connection resides or has its chief office in this state. If the company desiring the connection proceeds to make the connection, as permitted by subsection (2) of KRS 278.530, and the company so connected with refuses to receive and transmit the toll messages offered to it by the company making the connection, or refuses to deliver messages from its own lines or exchanges to the lines or exchanges of the company making the connection, the company so refusing shall be fined one hundred dollars ($100) for each day it refuses, to be recovered by indictment in the courts mentioned in the first sentence of this subsection; if it continues so to refuse for a period of six (6) months it shall forfeit its right to do business in this state, and any of its officers, agents or employes who does or attempts to do any business in this state for it after the expiration of the six (6) months' period shall be fined fifty dollars ($50.00) for each day he does or attempts to do such business.

[~~(8) Any company that violates any of the provisions of KRS 278.520 or 278.530 for which there is no other penalty provided shall be fined five hundred dollars ($500) for each offense, and each day of such violation shall constitute a separate offense.~~]

Section 5. The following KRS sections are repealed:

278.046 Annual reports by municipally owned electric utilities.

278.550 General powers and duties of interurban electric railway companies.

Calendar

HB 144, HB 401, HB 665, HCR 20, HR 69, HB 464, HB 120, HB 266, HB 451, HB 557, HB 143, HB 551, HB 43, HB 436, HB 571, HB 611, HCR 39 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor: SB 108, HB 667 and HB 695.

Orders of the Day

HB 301, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to HB 301. Agreed.

Representative Blevins moved that HB 301, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 2. (See February 20, 1986, roll call on HB 301—Appendix A.)

HB 301, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 301, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 73, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Amendment No. 1 to HB 73. Agreed.

Representative Meyer moved the adoption of the Committee Amendment No. 2 to HB 73. Agreed.

Representative Meyer moved that HB 73, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See February 20, 1986, roll call on HB 73—Appendix A.)

HB 73, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 73, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 452, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to HB 452. Agreed.

Representative Lear moved the adoption of the Floor Amendment No. 1 to HB 452. Agreed.

Representative L. Clark moved that HB 452, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 48, Nays 48 (See February 20, 1986, roll call on HB 452—Appendix A.)

HB 452, by way of Committee Substitute as amended was defeated.

Representative Farrow moved that the vote by which HB 452, by way of Committee Substitute as amended, was defeated be reconsidered and said motion be placed on the table.

On the roll the vote was yeas 41—Allen, Arnold, Barrows, Bendl, Brinkley, F. Brown, Caldwell, Clarke, Cline, Deskins, Farrow, Freibert, Hancock, Handy, K. Harper, Head, Heleringer, Holbrook, Holloway, Johnson. Keith, Lefevers, LeMaster, Little, Mack, McBee, McElroy, McNutt, Moberly, Napier, Nett, O'Brien, Overstreet, Preston, Rattliff, Reinhardt, B. Richardson, P. Richarson, Stone, Stumbo, Williams. Nays 47—Bennett, Blandford, Blevins, Bronger, Burch, Burnette, Clapp, L. Clark, P. Clark, Cowan, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Ford, Gedling, Gray, Guenthner, J. Harper, Hines, T. Jones, Kerr, Layman, Lear, Lile, Long, Lyne, Maggard, Mann, Meyer, Noe, Noland, Pearman, Priddy, Pritchett, Rapier, Riner, Scorsone, Seum, Siler, Stewart, Strong, Thomas, Turner, Worthington, Yates.

The Clincher motion not applied.

The motion that the vote by which HB 452, by way of Committee Substitute as amended was defeated be reconsidered and said motion be placed on the table was defeated.

Senate Message

Announcing passage of HB 241 with Senate Amendment, HB 210, HB 306 and HB 455.

Report on Enrolled Bills

The Committee on Enrollment reported SB 43 and SB 92 had been examined and found correctly enrolled. SB 43 and SB 92 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:27 p.m.)

Orders of the Day (Continued)

HB 497, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Floor Amendment No. 1 HB 497. Agreed.

Representative Clapp moved that HB 497 as amended, be passed.

On the roll call the vote was Yeas 77, Nays 10. (See February 20, 1986, roll call on HB 497—Appendix A.)

HB 497, as amended, was passed and the title agreed to.

Representative Clapp moved that the vote by which HB 497, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 413 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that HB 413 be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See February 20, 1986, roll call on HB 413—Appendix A.)

HB 413 was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 413 was passed be reconsidered and said motion be placed on the table agreed.

HB 431 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that HB 431 be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 20, 1986, roll call on HB 431—Appendix A.)

HB 431 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 431 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of the Committee Amendment No. 1 to HB 449. Agreed.

Representative Cowan moved that HB 449, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 20, 1986, roll call on HB 449—Appendix A.)

HB 449, as amended, was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 449, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 277, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 277 is as follows:

Amend printed copy of HB 277:

On page 1, line 21, through pages 2 and 3, delete Section 2 of the bill in its entirety.

Representative Heleringer moved that the House concur in the Senate Amendment No. 1 to HB 277. Agreed.

Representative Heleringer moved that HB 277, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 5. (See February 20, 1986, roll call on HB 277—Appendix A.)

HB 277, as amended by the Senate, was passed and the title agreed to.

Representative Heleringer moved that the vote by which HB 277, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 49 is as follows:

Amend printed copy of HB 49:

On page 3, line 23, by adding a new Section 2 to read as follows:

"Section 2. KRS 209.990 is amended to read as follows:

(1) Anyone knowingly and willfully violating the provisions of KRS 209.030(2) shall be *guilty of a Class B misdemeanor as designated in KRS 532.090* [~~punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200)~~]. Each violation shall constitute a separate offense.

(2) Any caretaker who knowingly and willfully abuses, neglects, or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury or permanent disability to such an adult, is guilty of a Class C felony, or if such abuse, neglect, or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor."

Representative Hines moved that the House concur in the Senate Amendment No. 1 to HB 49. Agreed.

Representative Hines moved that HB 49, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nay 0. (See February 20, 1986, roll call on HB 49—Appendix A.)

HB 49, as amended by the Senate was passed and the title agreed to.

Representative Hines moved that the vote by which HB 49, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 711, by Representative Meyer: AN ACT relating to mental health.

HB 712, by Representative Reinhardt: AN ACT relating to motor vehicle usage tax.

HB 713, by Representative Lear: AN ACT relating to limited access highways.

HB 714, by Representative Jensen: AN ACT relating to annexation.

HB 715, by Representative Deskins: AN ACT relating to underground coal mining.

HB 716, by Representative Meyer: AN ACT relating to compensation for utility property.

HB 717, by Representative Hancock: AN ACT relating to taxation.

HB 718, by Representative Johnson: AN ACT relating to landscape architects.

HB 719, by Representative Deskins: AN ACT relating to landlord and tenant.

HB 720, by Representatives Burnette, Bruce and Cowan: AN ACT relating to tobacco.

HB 721, by Representative Cline: AN ACT relating to surveyors.

HB 722, by Representatives McBee, K. Harper, Dawahare, Worthington, Mann, Donnermeyer, Caldwell, Crupper, Bronger, Meyer, Rapier, Reinhardt, Layman, Clapp and Stumbo: AN ACT relating to local air boards.

HB 723, by Representative Jensen: AN ACT relating to insurance.

HB 724, by Representative Deskins: AN ACT relating to workers' compensation.

HB 725, by Representatives Worthington and Pritchett: AN ACT relating to sales and use tax.

HB 726, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 727, by Representatives Mack, Noe, Moberly, Meyer and Scorsone: AN ACT relating to early childhood education and development programs.

HR 87, by Representatives Holbrook and Scorsone: A RESOLUTION urging the Polish Government to release Dariusz "Darek" Olszewski from prison.

HR 88, by Representative Gregory: A RESOLUTION naming Henry E. Pilkenton a poet laureate.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: HB 672.

Banking and Insurance: HB 700, HJR 58, SB 155, SB 156, HB 660 and HB 692.

Report of Committees

The Committee on Energy reported HB 446, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 446, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The commissioner shall have the following authority to appoint a special task force to investigate illegal drilling relative to violations of KRS Chapter 353:

(1) A sufficient number of inspectors and support personnel shall be assigned for the purpose of this section. Such inspectors shall be responsible for enforcement of the provisions of KRS Chapter 353 relating to criminal offenses;

(2) To assist with the enforcement of the duties of this section, the department may contract with the Kentucky state police for services of a sufficient number of police officers who possess adequate training and who shall be empowered to arrest any person either violating or in violation of the provisions of KRS Chapter 353 that constitutes criminal offenses;

(3) In addition to penalties prescribed in KRS 353.990 and 353.991, authorized representatives of the special task force for illegal drilling established by this section shall be empowered with the authority to seize and take possession of any equipment being used for the purpose of illegal drilling in violation of KRS 353.570. Such authorized representatives shall further be empowered to order any equipment being used for illegal drilling to remain at the site of said illegal drilling;

(4) Following arrest and before final disposition of the illegal drilling charges in violation of KRS 353.570, the accused shall have the right to have the equipment returned during such period if the accused posts bond equal to the fair market value of the equipment. Upon conviction or acquittal, the bond shall be refunded.

(5) Upon conviction of any person for violation of KRS 353.570, the court shall order any equipment used in the crime forfeited and sold by sealed bids. Proceeds from such sale shall be deposited in the illegal drilling fund as established in subsection (10) of this section;

(6) All property seized under this section shall be subject to the right of any owner or lienor, whose lien is valid and recorded, to intervene and, upon trial or special hearing held for that purpose before the court, establish his rights in the property by proving that the property was being used in connection with drilling in violation of KRS 353.570 without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so prove, the court may order the property restored to him. If the lienor so proves, the court may order a sale of the property by sealed bid with the lienor receiving from such sale the amount of his outstanding lien. However, the department shall deliver any seized property to a lienor whose claim has been established by order of a court of competent jurisdiction upon payment to the department of the difference between the fair market value of the property so seized and the recorded claim of the lienor;

(7) If the defendant is acquitted, all property seized in connection with the arrest of the defendant shall be ordered returned to the rightful owner unless previously returned under subsection (6) of this section;

(8) All expenses associated with the seizure, storing, and if applicable, sale of such property shall be the responsibility of the defendant if he is convicted;

(9) It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the court before the act of forfeiture occurs;

(10) There is established a special fund to be known as the "illegal drilling fund" which shall be under the control of the department;

(11) The fund shall consist of all monies from the court ordered sale or forfeiture of said equipment;

(12) Monies contained in the illegal drilling fund shall be deemed a trust and agency account and shall be used solely for the purpose of enforcement of KRS Chapter 353 by the department; and

(13) The department shall have access to and control of the monies held in the illegal drilling fund, but shall expend such monies only for the purpose set forth in subsection (12) of this section.

The Committee Amendment No. 1 to HB 446 is as follows:

Amend printed copy of HB 446:

On page 1, line 18, after "*(3)*" by adding the following:

"*Where a person has been previously determined to have violated the requirements of KRS 353.570,*"

The Committee Amendment No. 2 to HB 446 is as follows:

Amend printed copy of HB 446:

On page 2, line 17, by deleting after "*(6)*" and

by deleting all of lines 18 through 22; and

on line 23, by deleting "*violation of KRS 353.570,*" and

by inserting in lieu thereof, the following:

"*Within seven (7) days after seizure of any equipment, a hearing shall be scheduled before a court of competent jurisdiction for the purpose of determining whether any owner or lienor of record not before the court has rights in the property used in connection with the alleged violation of KRS 353.570 and whether the use of such equipment for illegal drilling was*"

The Committee on Health and Welfare reported HB 29, with Committee Amendment attached thereto, HB 78, with Committee Substitute attached thereto, HB 500, with Committee Substitute attached thereto, HB 521 and HB 603 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 29, AN ACT relating to social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, "social worker" means a social worker employed by the cabinet for human resources, department for social services, to provide services in foster care, child protection, juvenile services, or adult protection.

(2) No social worker employed by the cabinet for human resources, department for social services, shall carry a caseload which exceeds twenty-five (25) active cases.

The Committee Amendment No. 1 to HB 29 is as follows:

Amend printed copy of HB 29:

On page 1, line 3,

by deleting lines 3 through 11 in their entirety and inserting in lieu thereof the following new subsections:

"*(l) As used in this Act, "family service worker" means a social worker employed by the cabinet for human resources, department for social services, to provide direct casework services in foster care, child protection, juvenile services or adult protection.*

(2) The monthly statewide caseload average for family service workers in the area of foster care, child protection, juvenile services or adult protection shall not exceed twenty five (25) active cases.

(3) Nothing in this Act shall prevent the department or a family service worker from handling emergencies to carry out statutory mandates; provided however, that whenever the monthly statewide caseload average for family service workers exceeds twenty five (25) active cases for ninety (90) consecutive days the department shall report such fact to the governor and to the legislative research commission together with a description of the factors contributing thereto and shall make recommendations related thereto."

HB 78, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the cabinet for human resources.

(4) "Source of payment" means private payment or third party payment from medicaid, medicare, private health insurance or other payor of health expenses.

(5) "Statewide average of long-term care medical assistance recipients" means the average number of medical assistance recipients occupying skilled nursing facility beds or the average number of medical assistance recipients occupying intermediate care facility beds as of July 1 of each year as specified by the cabinet for human resources.

Section 2. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and his responsible family member or his guardian shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member or his guardian of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his responsible family member, or his guardian prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident and his responsible family member or his guardian are responsible for paying. The resident and his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and his responsible family member or his guardian. *No resident shall be transferred or discharged due to his source of payment or due to a change in source of payment. Change in source of payment shall include but not be limited to change from private payment status to reimbursement from a third party payor such as the Kentucky medical assistance program.*

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident and his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the cabinet for human resources.

(24) Each resident and his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 3. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the department for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21).

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the department for human resources with respect to such bases for payment.

(3) *Any skilled nursing facility or intermediate care facility participating in the Kentucky medical assistance program shall agree to admit at least as many intermediate care facility patients and skilled nursing facility patients as the statewide average of long-term care medical assistance recipients. If at any time a skilled nursing facility or an intermediate care facility participating in the medical assistance program has fewer than the statewide average of long-term care medical assistance recipients in its intermediate care facility beds or in its skilled nursing facility beds, the facility shall reserve beds as they become available for medicaid recipients until the statewide average in each level of care is attained.*

(4) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(5)[~~(4)~~] The rules and regulations of the department for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(6)[~~(5)~~] The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(7)[~~(6)~~] Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) No skilled nursing facility or intermediate care facility in the Commonwealth shall be issued a license unless the facility agrees and certifies in writing that it shall admit and provide long-term care services to at least as many medical assistance recipients as the statewide average of long-term care medical assistance recipients as defined in KRS 216.510.

(2) The Kentucky health facilities and health services certificate of need and licensure board or its successor agency shall suspend the license of any skilled nursing facility or intermediate care facility in the Commonwealth which refuses to admit at least as many medical assistance recipients as the statewide average of long-term care medical assistance recipients as defined in KRS 216.510.

The Committee Substitute to HB 78 is as follows:

HB 78, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with

the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21).

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) Every long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under title XIX of the social security act on the effective date of this Act shall not deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

HB 500, AN ACT relating to the licensure discipline of the practice of medicine and osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the state board of medical licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the state board of health. The offices of the board shall be maintained at such place as is designated by the board. *The board shall consist of eleven (11) members, including the commissioner of health, the dean of the university of Kentucky college of medicine, the dean of the university of Louisville school of medicine and eight (8) members appointed by the governor. It is recommended that one (1) of the governor's appointees be a licensed osteopathic physician, six (6) be licensed medical physicians and one (1) be a citizen at large. The Kentucky osteopathic medical association, the Kentucky medical association or any other association of licensed physicians may recommend to the governor one (1) or more persons for any vacant position. The citizen member shall not be a physician and shall not have any financial interest in the business of medical or osteopathic practice* [~~The board shall consist of seven (7) voting members appointed by the governor, and the deans of the University of Kentucky and University of Louisville medical schools, and the secretary of the department for human resources or his designee as ex officio, non-voting members. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. Five (5) members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. One (1) member shall be a citizen at large who is a representative of a recognized consumer advocacy group with an interest in the delivery of health care and is not associated with or financially interested in the practice or business regulated~~].

Section 2. KRS 311.535 is amended to read as follows:

The *appointed members of the state board of medical licensure shall hold office for terms of four (4) years and until their successors are appointed and qualify. The commissioner of health and the deans of the medical schools shall hold office only while holding their respective titles. All appointed members who held office as of January 1, 1986, shall continue to hold office until the expiration of their respective terms* [~~members of the state board of medical licensure shall hold office for terms of four years and until their successors are appointed and qualify except that the terms of office of the members first appointed shall be as follows: one member shall be nominated and appointed for one year, one member shall be nominated and appointed for two years, two members shall be nominated and appointed for three years, and three members shall be nominated and appointed for four years. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be four years or until his successor shall be appointed and qualify~~]. The terms of all appointed members of the board shall expire on August 31 of the last year of their respective terms.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board advocate may purchase liability insurance for all members of the board to protect them from liability arising in the course of pursuing their duties as members of the board and for all full-time employes to protect them from liability arising in the course or scope of their employment. This insurance shall be purchased with money contained in the trust and agency fund of the board.

Section 4. KRS 311.540 is amended to read as follows:

The state board of medical licensure shall hold meetings at least semiannually and more frequently if necessary, at such places and times as the board may determine. The board shall elect a president, vice president and secretary from among its members and adopt such rules and bylaws as the board deems necessary. Any and all members of the board may administer oaths in matters pertaining to official duties. The members of the board shall receive the sum of *one hundred dollars ($100) per day for each meeting attended* [~~twenty dollars ($25) per meeting attended~~] and shall also be entitled to reimbursement for all reasonable expenses for travel, lodging and subsistence incurred in connection with attendance of meetings of the board.

Section 5. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990*(4)*[~~(8)~~] to *(6)* [~~(11)~~]:

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure;

(4) "Executive director" means the executive director of the state board of medical licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the state board of medical licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution *or locale* to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular *or limited* license, and who appears (from *verifiable* [~~verified~~] information in the application) to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, *the practice of physical therapy as defined in KRS 327.010,* the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the cabinet for human resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the cabinet for human resources by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) [~~"Committee" means the physician review advisory committee unless otherwise indicated from the context;~~

~~(14)~~] "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14)[~~(15)~~] "Charge" means a specific allegation [~~contained in any document issued by the board or its committees~~] alleging a violation of a specified provision of this chapter;

(15)[~~(16)~~] "Complaint" means a formal administrative pleading [~~authorized by the board~~] that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16)[~~(17)~~] As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 6. KRS 311.565 is amended to read as follows:

The board is authorized and empowered to:

(1) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy;

(2) Promulgate reasonable rules and regulations establishing moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and permits that may be issued by the board;

(3) Issue, deny, suspend, limit, restrict and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620.

(4) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary as provided by KRS 311.530 to 311.620 and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(5) Appoint a general counsel and assistant general counsel and fix their compensation;

(6) Appoint investigatory personnel and fix their compensation;

(7) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every such hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Every such hearing officer shall be authorized to administer oaths and issue summonses, notices and subpoenas, but shall not be empowered to place any licensee on probation or to issue, refuse, suspend, limit or revoke any license;

(8) Appoint committees of licensees, who need not be board members, to review issues before the board and make recommendations to the board, including a physician review advisory committee, which may have at least one (1) non-physician member and which shall have the power to review grievances and recommend action to the board in accordance with the provisions of KRS 311.591 and 311.592;

(9) Promulgate regulations to promote the efficient and fair conduct of disciplinary proceedings;

(10) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally recognized principles of professional ethical conduct;

(11) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(12) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(13) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the national board of medical examiners, the national board of examiners for osteopathic physicians and surgeons, *the national joint committee of preregistration physician training programs,* or any approved successors thereof;

(14) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable rules and regulations of the board;

(15) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to rules and regulations prescribed by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for non-disciplinary reasons;

(16) Appoint examiners, who need not be members of the board, and employ or contract with the federation of state medical boards of the United States, inc. or the national board of medical examiners or other organizations, agencies or individuals to prepare examinations questions and grade examination papers;

(17) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(18) Prescribe the time, place, method, manner, scope and content of examinations; provided, however, that at least two (2) examinations shall be held annually;

(19) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(20) Prescribe and collect reasonable fees and charges for examinations, directories and the issuance and renewal of licenses and permits;

(21) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly promulgated disciplinary regulation of the board.

Section 7. KRS 311.575 is amended to read as follows:

(1) Whenever, in the opinion of the secretary, based upon verified information contained in the application, an applicant for a [~~regular~~] license to practice medicine or osteopathy is eligible therefor under subsections (1) and (2) of KRS 311.571, the secretary may issue to such applicant, on behalf of the board, a temporary permit which shall entitle the holder to practice medicine or osteopathy in this state for a maximum of six months from date of issuance thereof unless the temporary permit is sooner cancelled by the secretary, who may cancel it at any time, without a hearing, for reasons deemed sufficient to him, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular license. The permit shall not be renewable.

(2) The secretary shall present to the board the application for a [~~regular~~] license made by the holder of the temporary permit. In the event the board issues a [~~regular~~] license to the holder of a temporary permit, the fee paid in connection with any temporary permit then in effect shall be applied upon the prescribed license fee.

(3) When the secretary cancels a temporary permit, he shall promptly notify, by *certified* [~~registered~~] United States mail, the holder of the temporary permit, at his last known address as reflected by the files of the board, and the temporary permit shall become terminated and of no further force and effect three (3) days after the giving of said notice to the holder.

Section 8. KRS 311.591 is amended to read as follows:

(1) The president of the board shall divide the membership of the board, excluding himself, into two (2) panels of five (5) members each. Each panel shall have the power to act as an inquiry or a hearing panel. The president shall not be a member of either panel, but shall have the power to render the deciding vote whenever a tie vote is rendered by either panel.

(2) Grievances may be submitted by an individual (including board members), organization or entity. Each grievance shall be investigated as necessary and the executive director shall assign each grievance to an inquiry panel. All inquiry panels and the executive director shall have the power to issue investigatory subpoenas for the appearance of any person or production of any record, document or other item within the jurisdiction of the Commonwealth. The panel or executive director may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary.

(3) Upon completion of its inquiry, the inquiry panel shall make a finding that:

(a) The grievance is without merit and no further action is necessary;

(b) The grievance discloses an instance of misconduct which does not warrant the issuance of a complaint; in such instances, the panel may admonish the physician for his misconduct; or

(c) The grievance discloses one (1) or more violations of the provisions of this chapter which warrant the issuance of a complaint; in such instances, the panel shall cause a complaint to be prepared, signed by the residing officer, which shall contain sufficient information to apprise the named physician of the general nature of the charges.

(4) The inquiry panel shall cause a complaint to be served on the charged physician by personal delivery or by certified mail to the physician's last address of which the board has record. The physician shall submit a response within thirty (30) days after service. Failure to submit a timely response or wilful avoidance of service may be taken by the board as an admission of the charges.

(5) Upon the issuance of the complaint, the executive director shall assign the matter for hearing and decision by a hearing panel. No member who served on the inquiry panel may also serve as a member of the hearing panel. The hearing panel or the hearing officer on behalf of the panel shall preside over all proceedings pursuant to the issuance of a complaint. All board members, the executive director and hearing officer shall have the authority to administer oaths and issue summonses, subpoenas and other process. During or after any proceeding, the board or the hearing officer may petition the courts of the Commonwealth to punish as contempt the failure of a person or entity to obey a subpoena or other process, or contemptuous conduct directed to the board or the hearing officer.

(6) All proceedings pursuant to the issuance of a complaint shall be in accordance with the rules and regulations established by the board to promote the fair, orderly and efficient conduct of the proceedings. The board may establish regulations regarding the informal disposition of any complaint and such disposition may be made at any stage of the proceeding.

(7) Upon completion of the hearing process, the hearing officer shall prepare proposed findings of fact and conclusions of law. The parties shall have the opportunity to file objections or other comments regarding the proposed findings and conclusions. The hearing panel may adopt the proposed findings and conclusions, in whole or in part, or may make its own in addition to or substitution for the proposed ones. If a hearing officer is not used or the hearing officer fails to prepare findings and conclusions, the hearing panel shall prepare its own findings and conclusions and may then issue its final order.

(8) Upon completion of the disciplinary proceedings, the hearing panel shall issue an order that:

(a) Dismisses the complaint upon a conclusion that the provisions of this chapter have not been violated;

(b) Finds a violation of the provisions of this chapter, but does not impose discipline because the panel does not believe discipline to be necessary under the circumstances; or

(c) Imposes discipline upon the licensee; in such instances, the panel may revoke, suspend, restrict, deny, or limit a license, or may reprimand or place a licensee on probation under terms the panel may establish to protect the licensee, his patients or the general public.

The hearing panel may impose a fine whenever it finds that a violation of this chapter has occurred. The hearing panel's order shall be considered the final order of the board regarding the matter.

(9) The proceedings of the inquiry panels shall be held in closed session; and all records, reports or other materials reviewed by the inquiry panels and the minutes of their meetings shall not be subject to public disclosure, except for that evidence introduced after the issuance of a complaint. All proceedings pursuant to the issuance of a complaint shall be in open session and the record thereof subject to public disclosure. However, the presiding officer may order that a session or record be closed and not subject to public disclosure to the extent necessary to protect privacy interests upon a showing that evidence is to be introduced, the public disclosure of which would constitute a clear invasion of personal privacy. The deliberations of the hearing panel shall be held in closed session.

(10) Regardless of the restrictions on public disclosure of information established in subsection nine (9) of this section, the board may order information derived from any investigation or inquiry be released to the physician licensure authority of another state or to any health care facility licensed and regulated by the Commonwealth of Kentucky upon a showing that the information is necessary to determine the propriety of a physician practicing in a particular state or facility. [~~Grievances may be submitted by any individual, organization or entity. Each grievance shall be investigated as necessary and shall be reviewed by the physician~~

~~review advisory committee which shall petition the board to issue a complaint against the physician named in the grievance or recommend some other appropriate action.~~

~~(2) If in the committee's opinion a grievance warrants the issuance of a complaint against a physician, the committee shall submit a complaint, signed by the chairman or vice-chairman, to the board together with a petition requesting the board to authorize the complaint's issuance. Upon receipt of the complaint and petition the board shall, within sixty (60) days:~~

~~(a) Grant the petition and authorize the complaint with or without modification; or~~

~~(b) Deny the petition and either remand the matter to the committee or direct that some other action be taken.~~

~~(3) If in the committee's opinion a grievance does not warrant the issuance of a complaint against a physician, the committee shall submit a report and recommendation of action to the board which may follow the recommendation or take other action it deems appropriate.~~

~~(4) When in the executive director's opinion, as evidenced by his or her affidavit, a grievance warrants the issuance of a complaint against a physician as soon as possible and it is impossible to timely present the grievance to the committee, the executive director may petition the board to authorize the issuance of a complaint which shall be signed by the executive director. The board may thereupon treat the petition and complaint as denoted in subsection (2) of this section.~~

~~(5) All complaints shall be authorized by the board and shall contain sufficient information to apprise the named physician of the general nature of the charges.~~

~~(6) If, in connection with any document submitted in regard to an application for licensure or an application for renewal of licensure, a physician makes an admission of facts which would constitute grounds for the denial of a license or the taking of any disciplinary action against a licensee, the board may issue an order directing the particular physician to appear to show cause why his license should not be denied or he should not be disciplined, accordingly. The order shall be signed by the president or secretary and shall set forth those facts which the named physician is believed to have admitted.~~

~~(7) Proceedings pursuant to the issuance of a complaint or show cause order shall be commenced by service of the particular documents on the named physician by personal delivery or by certified mail to the physician's last address of which the board has record. The physician shall submit a response to a complaint within thirty (30) days after service and failure to submit a response may be taken by the board as an admission of the charges contained in the complaint. The physician may submit a response to a show cause order at any time prior to the date of the hearing.~~

~~(8) The board or the hearing officer on behalf of the board shall preside over all proceedings pursuant to the issuance of a complaint or show cause order, including hearings held in connection with orders temporarily suspending, limiting or restricting a physician's license. The proceedings shall be held in accordance with due process and the rules and regulations established by the board relating to the conduct of the proceedings. All board members, the executive director and hearing officers shall have the authority to administer oaths and issue summonses, subpoenas and other process. During or after any proceeding, the board or the hearing officer may petition the district or circuit courts to punish as contempt the failure of a person or entity to obey a subpoena or other process, or contemptuous or contumacious conduct directed to the board or the hearing officer.~~

~~(9) Except as elsewhere provided, or if waived, no hearing at which substantive evidence is to be introduced shall be held unless thirty (30) days, prior written notice thereof has been given to the named physician, who may be present, in person or by counsel, and may present evidence and otherwise be heard in opposition to the charges.~~

~~(10) Notwithstanding any statutory or regulatory provision relating to the institution or procession of proceedings relating to the denial of a license or the taking of disciplinary action against a licensee, the board is empowered to implement procedures which, upon written waiver of rights by the particular physician, would allow for the informal dispensation of any matter, regardless of the stage of the proceedings.~~

~~(11) The presiding officer at any proceeding held pursuant to a complaint or show cause order shall take whatever measures are necessary to protect the privacy interests of individuals other than the charged physician upon a showing that evidence is to be introduced, the public disclosure of which would constitute a clear invasion of personal privacy. It is the general policy of the Commonwealth that administrative proceedings should be open to the public. Therefore, in applying this subsection the presiding officer shall balance the competing interests and employ the least restrictive measures available to protect the privacy interests involved.~~]

Section 9. KRS 311.592 is amended to read as follows:

(1) *At any time when an inquiry panel has probable cause to believe that a physician has violated the terms of an order placing him on probation, or a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public, the inquiry panel may issue an order suspending, limiting or restricting the physician's license. The order shall be signed by a member of the panel and shall state the grounds upon which the panel is relying. The order shall be served on the named physician by certified mail or by personal delivery, but shall be effective when the physician receives actual notice of the order.*

(2) An order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the hearing on the order or the order shall become void.

(3) Upon request of the named physician, the inquiry panel shall schedule a hearing in regard to the order within fifteen (15) days of the request. The hearing may be held before the panel or before a hearing officer appointed by the panel. Within five (5) days after conclusion of the hearing, the panel or hearing officer shall issue an order affirming or retracting the original order. The original order shall be affirmed if substantial evidence is produced that supports the panel's finding that a probation has been violated or a physician's practice constitutes a danger.

(4) The order issued pursuant to a hearing as described in subsection (3) of this section shall be appealable as described in KRS 311.593. If the order affirms the inquiry panel's original order, the named physician may petition the panel to modify the terms of the suspension or restriction and the panel may make such modifications as it deems appropriate. An order of temporary suspension, restriction or limitation shall not be maintained after a final order is served on the charged physician pursuant to the proceeding on the complaint.

[~~In connection with any petition requesting the board to authorize the issuance of a complaint, the petitioning party may also request the board to issue an order temporarily suspending, limiting or restricting the license held by the physician named in the complaint during the pendency of the proceedings. The petition shall set forth grounds upon which the petitioning party is relying to support the request and the petition shall be verified by the petitioning party.~~

~~(2) At any time during the pendency of a proceeding commenced pursuant to the authorized issuance of a complaint or show cause order, the executive director may petition the board to issue an order temporarily suspending, limiting or restricting the license held by the physician named in the complaint during the balance of the pendency of the proceeding. The executive director shall sign and verify the petition which shall set forth grounds in support of the request.~~

~~(3) (a) Upon submission of a verified petition requesting the board to issue an order temporarily suspending, limiting or restricting the license of a physician, the board shall within sixty (60) days:~~

~~1. Grant the petition, and issue the order with or without modification; or~~

~~2. Deny the petition.~~

~~(b) The board may grant the petition when in the opinion of the board, based upon sufficient reasonable cause, the continued unaffected practice by the named physician would constitute a danger to the health, welfare and safety of the physician's patients or of the general public.~~

~~(4) Any order temporarily suspending, limiting or restricting a license shall be effective when issued and the named physician shall not engage in any prohibited practice unless and until the order is reversed, modified or withdrawn. The named physician may petition the board in writing requesting a hearing to determine whether~~

~~the board's order is based on sufficient reasonable cause. The hearing, if requested, shall be held within fifteen (15) days after the petition is filed with the board; and the board, or the hearing officer on behalf of the board, shall issue an order within five (5) days after the hearing sustaining, modifying or withdrawing the contested order during the pendency of the proceedings.~~

~~(5) Except in extraordinary circumstances when the demands of time and circumstance do not allow, anyone petitioning the board to issue an order temporarily suspending, limiting or restricting a physician's license shall notify the physician of the nature of the charges at least ten (10) days prior to the submission of the petition. The named physician may respond to the charges either orally or in writing and the response shall be considered by the board in determining whether to grant the petition.~~

~~(6) Any order issued pursuant to a hearing on an order temporarily suspending, limiting or revoking a physician's license shall be considered final for purposes of appeal.~~]

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue an order directing an applicant for a license or the holder of a license to show cause why the applicant should be granted a license or the licensee should not be disciplined, respectively, when:

(a) An applicant admits or is otherwise found to have committed an act which constitutes a violation of the provisions of this chapter; or

(b) A licensee admits to having committed an act in violation of the provisions of this chapter in any document relating to the registration or reregistration of a license.

(2) The order shall be signed by an officer of the board and shall state those violations which the board believes to have been committed. The matter shall be assigned to a hearing panel and shall proceed in accordance with KRS 311.591. The burden of proof shall lie with the charged physician.

(3) If a show cause order has been issued to the particular physician, the board shall not approve any application for licensure or application for reregistration of an inactive license until a final order on the matter has been issued.

Section 11. KRS 311.599 is amended to read as follows:

(1) *When a hearing or inquiry panel has probable cause to believe a physician is suffering from a physical or mental condition that might impede his ability to practice competently, the panel may order the physician to undergo a physical or mental examination by persons designated by the panel.* [~~To assist the board in enforcing the provisions of KRS 311.595(7), the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. The board may issue such an order to a licensee in conjunction with a complaint against the licensee or at any time during the proceedings, when in the board's opinion such action is deemed necessary in order to ascertain the licensee's ability to practice competently.~~]

(2) Failure of a physician to submit to such an examination when directed, unless the failure was due to circumstances beyond his control, shall constitute an admission that the concerned physician has developed such a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

(3) A physician whose license has been suspended, limited, restricted or revoked under this section and KRS 311.595(7), shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

Section 12. KRS 311.605 is amended to read as follows:

(1) Every county board of health shall, at such times as are fixed by the board, report to the board the name and address of each person believed to be engaged in the practice of medicine or osteopathy, as defined by KRS 311.550, within their respective jurisdictions. The county boards of health shall also report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.

(2) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. *The term "premises" as used in this subsection shall include physician offices, pharmacies and all health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews.*

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.550 to 311.620, regardless of whether the defendant has been convicted for violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

The Committee Substitute to HB 500 is as follows:

HB 500, AN ACT relating to the licensure discipline of the practice of medicine and osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the state board of medical licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the state board of health. The offices of the board shall be maintained at such place as is designated by the board. *The board shall consist of eleven (11) members, including the commissioner of health, the dean of the university of Kentucky college of medicine, the dean of the university of Louisville school of medicine and eight (8) members appointed by the governor.* [~~The board shall consist of seven (7) voting members appointed by the governor, and the deans of the University of Kentucky and University of Louisville medical schools, and the secretary of the department for human resources or his designee as ex officio, non-voting members.~~] One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. *Six (6)* [~~Five (5)~~] members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. One (1) member shall be a citizen at large who is a representative of a recognized consumer advocacy group with an interest in the delivery of health care and is not associated with or financially interested in the practice or business regulated.

Section 2. KRS 311.535 is amended to read as follows:

The *appointed members of the state board of medical licensure shall hold office for terms of four (4) years and until their successors are appointed and qualify. The commissioner of health and the deans of the medical schools shall hold office only while holding their respective titles. All appointed members who held office as of January 1, 1986, shall continue to hold office until the expiration of their respective terms* [~~members of the state board of medical licensure shall hold office for terms of four years and until their successors are appointed and qualify except that the terms of office of the members first appointed shall be as follows: one member shall be nominated and appointed for one year, one member shall be nominated and appointed for two years, two members shall be nominated and appointed for three years, and three members shall be nominated and appointed for four years. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be four years or until his successor shall be appointed and qualify~~]. The terms of all appointed members of the board shall expire on August 31 of the last year of their respective terms.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board advocate may purchase liability insurance for the protection of all members of the board to protect them from liability arising in the course of pursuing their duties as members of the board and for all full-time employes to protect them from liability arising in the course or scope of their employment. This insurance shall be purchased with money contained in the trust and agency fund of the board.

Section 4. KRS 311.540 is amended to read as follows:

The state board of medical licensure shall hold meetings at least semiannually and more frequently if necessary, at such places and times as the board may determine. The board shall elect a president, vice president and secretary from among its members and adopt such rules and bylaws as the board deems necessary. Any and all members of the board may administer oaths in matters pertaining to official duties. The members of the board shall receive the sum of *one hundred dollars ($100) per day for each meeting attended* [~~twenty dollars ($25) per meeting attended~~] and shall also be entitled to reimbursement for all reasonable expenses for travel, lodging and subsistence incurred in connection with attendance of meetings of the board.

Section 5. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990*(4)*[~~(8)~~] to *(6)* [~~(11)~~]:

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure;

(4) "Executive director" means the executive director of the state board of medical licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the state board of medical licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution *or locale* to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular *or limited* license, and who appears (from *verifiable* [~~verified~~] information in the application) to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, *the practice of physical therapy as defined in KRS 327.010,* the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the cabinet for human resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the cabinet for human resources by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) [~~"Committee" means the physician review advisory committee unless otherwise indicated from the context;~~

~~(14)~~] "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14)[~~(15)~~] "Charge" means a specific allegation [~~contained in any document issued by the board or its committees~~] alleging a violation of a specified provision of this chapter;

(15)[~~(16)~~] "Complaint" means a formal administrative pleading [~~authorized by the board~~] that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16)[~~(17)~~] As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 6. KRS 311.565 is amended to read as follows:

The board is authorized and empowered to:

(1) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy;

(2) Promulgate reasonable rules and regulations establishing moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and permits that may be issued by the board;

(3) Issue, deny, suspend, limit, restrict and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620.

(4) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary as provided by KRS 311.530 to 311.620 and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(5) Appoint a general counsel and assistant general counsel and fix their compensation;

(6) Appoint investigatory personnel and fix their compensation;

(7) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every such hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Every such hearing officer shall be authorized to administer oaths and issue summonses, notices and subpoenas, but shall not be empowered to place any licensee on probation or to issue, refuse, suspend, limit or revoke any license;

(8) Appoint committees of licensees, who need not be board members, to review issues before the board and make recommendations to the board, including a physician review advisory committee, which may have at least one (1) non-physician member and which shall have the power to review grievances and recommend action to the board in accordance with the provisions of KRS 311.591 and 311.592;

(9) Promulgate regulations to promote the efficient and fair conduct of disciplinary proceedings;

(10) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally recognized principles of professional ethical conduct;

(11) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(12) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(13) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the national board of medical examiners, the national board of examiners for osteopathic physicians and surgeons, *the national joint committee of preregistration physician training programs,* or any approved successors thereof;

(14) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable rules and regulations of the board;

(15) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to rules and regulations prescribed by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for non-disciplinary reasons;

(16) Appoint examiners, who need not be members of the board, and employ or contract with the federation of state medical boards of the United States, inc. or the national board of medical examiners or other organizations, agencies or individuals to prepare examinations questions and grade examination papers;

(17) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(18) Prescribe the time, place, method, manner, scope and content of examinations; provided, however, that at least two (2) examinations shall be held annually;

(19) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(20) Prescribe and collect reasonable fees and charges for examinations, directories and the issuance and renewal of licenses and permits;

(21) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly promulgated disciplinary regulation of the board.

Section 7. KRS 311.575 is amended to read as follows:

(1) Whenever, in the opinion of the secretary, based upon verified information contained in the application, an applicant for a [~~regular~~] license to practice medicine or osteopathy is eligible therefor under subsections (1) and (2) of KRS 311.571, the secretary may issue to such applicant, on behalf of the board, a temporary permit which shall entitle the holder to practice medicine or osteopathy in this state for a maximum of six months from date of issuance thereof unless the temporary permit is sooner cancelled by the secretary, who may cancel it at any time, without a hearing, for reasons deemed sufficient to him, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular license. The permit shall not be renewable.

(2) The secretary shall present to the board the application for a [~~regular~~] license made by the holder of the temporary permit. In the event the board issues a regular license to the holder of a temporary permit, the fee paid in connection with any temporary permit then in effect shall be applied upon the prescribed license fee.

(3) When the secretary cancels a temporary permit, he shall promptly notify, by *certified* [~~registered~~] United States mail, the holder of the temporary permit, at his last known address as reflected by the files of the board, and the temporary permit shall become terminated and of no further force and effect three (3) days after the giving of said notice to the holder.

Section 8. KRS 311.591 is amended to read as follows:

(1) *The president of the board shall divide the membership of the board, excluding himself, into two (2) panels of five (5) members each. Each panel shall have the power to act as an inquiry or a hearing panel. The president shall not be a member of either panel, but shall have the power to render the deciding vote whenever a tie vote is rendered by either panel.*

(2) Grievances may be submitted by an individual (including board members), organization or entity. Each grievance shall be investigated as necessary and the executive director shall assign each grievance to an inquiry panel. All inquiry panels and the executive director shall have the power to issue investigatory subpoenas for the appearance of any person or production of any record, document or other item within the jurisdiction of the Commonwealth. The panel or executive director may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary.

(3) Upon completion of its inquiry, the inquiry panel shall make a finding that:

(a) The grievance is without merit and no further action is necessary; or

(b) The grievance discloses an instance of misconduct which does not warrant the issuance of a complaint; in such instances, the panel may admonish the physician for his misconduct; or

(c) The grievance discloses one (1) or more violations of the provisions of this chapter which warrant the issuance of a complaint; in such instances, the panel shall cause a complaint to be prepared, signed by the residing officer, which shall contain sufficient information to apprise the named physician of the general nature of the charges.

(4) The inquiry panel shall cause a complaint to be served on the charged physician by personal delivery or by certified mail to the physician's last address of which the board has record. The physician shall submit a response within thirty (30) days after service. Failure to submit a timely response or wilful avoidance of service may be taken by the board as an admission of the charges.

(5) Upon the issuance of the complaint, the executive director shall assign the matter for hearing and decision by a hearing panel. No member who served on the inquiry panel may also serve as a member of the hearing panel. The hearing panel or the hearing officer on behalf of the panel shall preside over all proceedings pursuant to the issuance of a complaint. All board members, the executive director and hearing officer shall have the authority to administer oaths and issue summonses, subpoenas and other process. During or after any proceeding, the board or the hearing officer may petition the courts of the Commonwealth to punish as contempt the failure of a person or entity to obey a subpoena or other process, or contemptuous conduct directed to the board or the hearing officer.

(6) All proceedings pursuant to the issuance of a complaint shall be in accordance with the rules and regulations established by the board to promote the fair, orderly and efficient conduct of the proceedings. The board may establish regulations regarding the informal disposition of any complaint and such disposition may be made at any stage of the proceeding.

(7) Upon completion of the hearing process, the hearing officer shall prepare proposed findings of fact and conclusions of law. The parties shall have the opportunity to file objections or other comments regarding the proposed findings and conclusions. The hearing panel may adopt the proposed findings and conclusions, in whole or in part, or may make its own in addition to or substitution of the proposed ones. If a hearing officer is not used or the hearing officer fails to prepare findings and conclusions, the hearing panel shall prepare its own findings and conclusions and may then issue its final order.

(8) Upon completion of the disciplinary proceedings, the hearing panel shall issue an order that:

(a) Dismisses the complaint upon a conclusion that the provisions of this chapter have not been violated;

(b) Finds a violation of the provisions of this chapter, but does not impose discipline because the panel does not believe discipline to be necessary under the circumstances; or

(c) Imposes discipline upon the licensee; in such instances, the panel may revoke, suspend, restrict, deny, or limit a license, or may reprimand or place a licensee on probation under terms the panel may establish to protect the licensee, his patients or the general public.

The hearing panel may impose a fine whenever it finds that a violation of this chapter has occurred. The hearing panel's order shall be considered the final order of the board regarding the matter.

(9) The proceedings of the inquiry panels shall be held in closed session; and all records, reports or other materials reviewed by the inquiry panels and the minutes of their meetings shall not be subject to public disclosure, except for that evidence introduced after the issuance of a complaint. All proceedings pursuant to the issuance of a complaint shall be in open session and the record thereof subject to public disclosure; provided, however, the presiding officer may order that a session or record be closed and not subject to public disclosure to the extent necessary to protect privacy interests upon a showing that evidence is to be introduced, the public disclosure of which would constitute a clear invasion of personal privacy. The deliberations of the hearing panel shall be held in closed session.

(10) Regardless of the restrictions on public disclosure of information established in subsection nine (9) of this section, the board may order information derived from any investigation or inquiry be released to the physician licensure authority of another state or to any health care facility licensed and regulated by the Commonwealth of Kentucky upon a showing that the information is necessary to determine the propriety of a physician practicing in a particular state or facility. [~~Grievances may be submitted by any individual, organization or entity. Each grievance shall be investigated as necessary and shall be reviewed by the physician review advisory committee which shall petition the board to issue a complaint against the physician named in the grievance or recommend some other appropriate action.~~

~~(2) If in the committee's opinion a grievance warrants the issuance of a complaint against a physician, the committee shall submit a complaint, signed by the chairman or vice-chairman, to the board together with a petition requesting the board to authorize the complaint's issuance. Upon receipt of the complaint and petition the board shall, within sixty (60) days:~~

~~(a) Grant the petition and authorize the complaint with or without modification; or~~

~~(b) Deny the petition and either remand the matter to the committee or direct that some other action be taken.~~

~~(3) If in the committee's opinion a grievance does not warrant the issuance of a complaint against a physician, the committee shall submit a report and recommendation of action to the board which may follow the recommendation or take other action it deems appropriate.~~

~~(4) When in the executive director's opinion, as evidenced by his or her affidavit, a grievance warrants the issuance of a complaint against a physician as soon as possible and it is impossible to timely present the grievance to the committee, the executive director may petition the board to authorize the issuance of a complaint which shall be signed by the executive director. The board may thereupon treat the petition and complaint as denoted in subsection (2) of this section.~~

~~(5) All complaints shall be authorized by the board and shall contain sufficient information to apprise the named physician of the general nature of the charges.~~

~~(6) If, in connection with any document submitted in regard to an application for licensure or an application for renewal of licensure, a physician makes an admission of facts which would constitute grounds for the denial of a license or the taking of any disciplinary action against a licensee, the board may issue an order directing the particular physician to appear to show cause why his license should not be denied or he should not be disciplined, accordingly. The order shall be signed by the president or secretary and shall set forth those facts which the named physician is believed to have admitted.~~

~~(7) Proceedings pursuant to the issuance of a complaint or show cause order shall be commenced by service of the particular documents on the named physician by personal delivery or by certified mail to the physician's last address of which the board has record. The physician shall submit a response to a complaint within thirty (30) days after service and failure to submit a response may be taken by the board as an admission of the charges contained in the complaint. The physician may submit a response to a show cause order at any time prior to the date of the hearing.~~

~~(8) The board or the hearing officer on behalf of the board shall preside over all proceedings pursuant to the issuance of a complaint or show cause order, including hearings held in connection with orders temporarily suspending, limiting or restricting a physician's license. The proceedings shall be held in accordance with due process and the rules and regulations established by the board relating to the conduct of the proceedings. All board members, the executive director and hearing officers shall have the authority to administer oaths and~~

~~issue summonses, subpoenas and other process. During or after any proceeding, the board or the hearing officer may petition the district or circuit courts to punish as contempt the failure of a person or entity to obey a subpoena or other process, or contemptuous or contumacious conduct directed to the board or the hearing officer.~~

~~(9) Except as elsewhere provided, or if waived, no hearing at which substantive evidence is to be introduced shall be held unless thirty (30) days, prior written notice thereof has been given to the named physician, who may be present, in person or by counsel, and may present evidence and otherwise be heard in opposition to the charges.~~

~~(10) Notwithstanding any statutory or regulatory provision relating to the institution or procession of proceedings relating to the denial of a license or the taking of disciplinary action against a licensee, the board is empowered to implement procedures which, upon written waiver of rights by the particular physician, would allow for the informal dispensation of any matter, regardless of the stage of the proceedings.~~

~~(11) The presiding officer at any proceeding held pursuant to a complaint or show cause order shall take whatever measures are necessary to protect the privacy interests of individuals other than the charged physician upon a showing that evidence is to be introduced, the public disclosure of which would constitute a clear invasion of personal privacy. It is the general policy of the Commonwealth that administrative proceedings should be open to the public. Therefore, in applying this subsection the presiding officer shall balance the competing interests and employ the least restrictive measures available to protect the privacy interests involved.~~]

Section 9. KRS 311.592 is amended to read as follows:

(1) *At any time when an inquiry panel has probable cause to believe that a physician has violated the terms of an order placing him on probation, or a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public, the inquiry panel may issue an order suspending, limiting or restricting the physician's license. The order shall be signed by a member of the panel and shall state the grounds upon which the panel is relying. The order shall be served on the named physician by certified mail or by personal delivery, but shall be effective when the physician receives actual notice of the order.*

(2) An order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the hearing on the order or the order shall become void.

(3) Upon request of the named physician, the inquiry panel shall schedule a hearing in regard to the order within fifteen (15) days of the request. The hearing may be held before the panel or before a hearing officer appointed by the panel. Within five (5) days after conclusion of the hearing, the panel or hearing officer shall issue an order affirming or retracting the original order. The original order shall be affirmed if substantial evidence is produced that supports the panel's finding that a probation has been violated or a physician's practice constitutes a danger.

(4) The order issued pursuant to a hearing as described in subsection (3) of this section shall be appealable as described in KRS 311.593. If the order affirms the inquiry panel's original order, the named physician may petition the panel to modify the terms of the suspension or restriction and the panel may make such modifications as it deems appropriate. An order of temporary suspension, restriction or limitation shall not be maintained after a final order is served on the charged physician pursuant to the proceeding on the complaint.

[~~In connection with any petition requesting the board to authorize the issuance of a complaint, the petitioning party may also request the board to issue an order temporarily suspending, limiting or restricting the license held by the physician named in the complaint during the pendency of the proceedings. The petition shall set forth grounds upon which the petitioning party is relying to support the request and the petition shall be verified by the petitioning party.~~

~~(2) At any time during the pendency of a proceeding commenced pursuant to the authorized issuance of a complaint or show cause order, the executive director may petition the board to issue an order temporarily suspending, limiting or restricting the license held by the physician named in the complaint during the balance of the pendency of the proceeding. The executive director shall sign and verify the petition which shall set forth grounds in support of the request.~~

~~(3) (a) Upon submission of a verified petition requesting the board to issue an order temporarily suspending, limiting or restricting the license of a physician, the board shall within sixty (60) days:~~

~~1. Grant the petition, and issue the order with or without modification; or~~

~~2. Deny the petition.~~

~~(b) The board may grant the petition when in the opinion of the board, based upon sufficient reasonable cause, the continued unaffected practice by the named physician would constitute a danger to the health, welfare and safety of the physician's patients or of the general public.~~

~~(4) Any order temporarily suspending, limiting or restricting a license shall be effective when issued and the named physician shall not engage in any prohibited practice unless and until the order is reversed, modified or withdrawn. The named physician may petition the board in writing requesting a hearing to determine whether the board's order is based on sufficient reasonable cause. The hearing, if requested, shall be held within fifteen (15) days after the petition is filed with the board; and the board, or the hearing officer on behalf of the board, shall issue an order within five (5) days after the hearing sustaining, modifying or withdrawing the contested order during the pendency of the proceedings.~~

~~(5) Except in extraordinary circumstances when the demands of time and circumstance do not allow, anyone petitioning the board to issue an order temporarily suspending, limiting or restricting a physician's license shall notify the physician of the nature of the charges at least ten (10) days prior to the submission of the petition. The named physician may respond to the charges either orally or in writing and the response shall be considered by the board in determining whether to grant the petition.~~

~~(6) Any order issued pursuant to a hearing on an order temporarily suspending, limiting or revoking a physician's license shall be considered final for purposes of appeal.~~]

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue an order directing an applicant for a license or the holder of a license to show cause why the applicant should be granted a license or the licensee should not be disciplined, respectively, when:

(a) An applicant admits or is otherwise found to have committed an act which constitutes a violation of the provisions of this chapter; or

(b) A licensee admits to having committed an act in violation of the provisions of this chapter in any document relating to the registration or reregistration of a license.

(2) The order shall be signed by an officer of the board and shall state those violations which the board believes to have been committed. The matter shall be assigned to a hearing panel and shall proceed in accordance with KRS 311.591. The burden of proof shall lie with the charged physician.

(3) The board shall not approve any application for licensure or application for reregistration of an inactive license until a final order on the matter has been issued.

Section 11. KRS 311.599 is amended to read as follows:

(1) *When a hearing or inquiry panel has probable cause to believe a physician is suffering from a physical or mental condition that might impede his ability to practice competently, the panel may order the physician to undergo a physical or mental examination by persons designated by the panel.* [~~To assist the board in enforcing the provisions of KRS 311.595(7), the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. The board may issue such an order to a licensee in conjunction with a complaint against the licensee or at any time during the proceedings, when in the board's opinion such action is deemed necessary in order to ascertain the licensee's ability to practice competently.~~]

(2) Failure of a physician to submit to such an examination when directed, unless the failure was due to circumstances beyond his control, shall constitute an admission that the concerned physician has developed such a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to

the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

(3) A physician whose license has been suspended, limited, restricted or revoked under this section and KRS 311.595(7), shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

Section 12. KRS 311.605 is amended to read as follows:

(1) Every county board of health shall, at such times as are fixed by the board, report to the board the name and address of each person believed to be engaged in the practice of medicine or osteopathy, as defined by KRS 311.550, within their respective jurisdictions. The county boards of health shall also report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.

(2) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. *The term "premises" as used in this subsection shall include physician offices, pharmacies and all health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews.*

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.550 to 311.620, regardless of whether the defendant has been convicted for violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

HB 521, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21).

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of such payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

HB 603, AN ACT relating to the state board of medical licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.565 is amended to read as follows:

The board is authorized and empowered to:

(1) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy;

(2) Promulgate reasonable rules and regulations establishing moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and permits that may be issued by the board;

(3) Issue, deny, suspend, limit, restrict and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620.

(4) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary as provided by KRS 311.530 to 311.620 and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(5) Appoint a general counsel and assistant general counsel and fix their compensation;

(6) Appoint investigatory personnel and fix their compensation;

(7) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every such hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Every such hearing officer shall be authorized to administer oaths and issue summonses, notices and subpoenas, but shall not be empowered to place any licensee on probation or to issue, refuse, suspend, limit or revoke any license;

(8) Appoint committees of licensees, who need not be board members, to review issues before the board and make recommendations to the board, including a physician review advisory committee, which may have at least one (1) non-physician member and which shall have the power to review grievances and recommend action to the board in accordance with the provisions of KRS 311.591 and 311.592;

(9) Promulgate regulations to promote the efficient and fair conduct of disciplinary proceedings;

(10) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally recognized principles of professional ethical conduct;

(11) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(12) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(13) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, or any approved successors thereof;

(14) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable rules and regulations of the board;

(15) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to rules and regulations prescribed by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for non-disciplinary reasons;

(16) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc. or the National Board of Medical Examiners or other organizations, agencies or individuals to prepare examinations questions and grade examination papers;

(17) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(18) Prescribe the time, place, method, manner, scope and content of examinations; provided, however, that at least two (2) examinations shall be held annually;

(19) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(20) Prescribe and collect reasonable fees and charges for examinations, directories and the issuance and renewal of licenses and permits;

(21) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly promulgated disciplinary regulation of the board*; and*

(22) Exercise all the administrative functions of the state in regard to the regulation of physician assistants. In promulgating these regulations under the provisions of KRS Chapter 13A, the board shall address:

(a) The professional qualifications of physician assistants;

(b) The supervision of physician assistants by licensed physicians;

(c) The review and discipline of physician assistants and their supervising physicians;

(d) The scope of practice allowed physician assistants;

(e) The facilities in which physician assistants may practice; and

(f) The delegation of responsibilities from physicians to physician assistants.

The board is specifically authorized to establish qualifications that the physician assistants shall attain before the board grants the right to practice in this state. At a minimum, these qualifications shall include the passage of a written examination approved by the board and satisfactory completion of a clinical training program approved by the board. The board may establish an advisory committee to aid the board in the regulation of physician assistants, who shall be considered adjuncts to supervising physicians and not independent practitioners of any healing art.

Motions, Petitions and Communications (Continued)

Representative Holbrook moved to suspend the rules to act upon a Resolution. Agreed.

Representative Holbrook moved the adoption of HR 87:

HR 87, A RESOLUTION urging the Polish government to release Dariusz "Darek" Olszewski from prison.

WHEREAS, Dariusz "Darek" Olszewski, a Polish citizen, was united in marital bliss in early 1984 to Donna Sue Kersey, a citizen of the United States; and

WHEREAS, Donna Sue and Darek's marriage was blessed by the birth of their daughter, Daniela, on December 26, 1984; and

WHEREAS, Donna Sue, Daniela and Darek were in Donna Sue's hometown of Ashland, Kentucky last summer for three months visiting with Donna's parents, Bill and Eleanor Kersey; and

WHEREAS, Darek Olszewski has been issued his "green card" permitting him permanent residency in the United States as the husband of an American citizen; and

WHEREAS, Darek was a rescue team member who worked in the copper mines until he lost his job in December of 1981 when the country was under martial law; and

WHEREAS, the Polish government detained Donna Sue in a Wroclaw jail for being an illegal immigrant after her visa card expired; and

WHEREAS, Donna Sue and Daniela have recently been released and permitted to leave Poland; and

WHEREAS, the Polish government will not give Darek permission to join his family to return to the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body express their concern for the well-being of Dariusz "Darek" Olszewski and commend his beloved wife Donna Sue, his daughter Daniela and his in-laws Bill and Eleanor Kersey to the solace of the Almighty during this trying vigil awaiting Darek's release.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky hereby strongly urges the government of Poland to assure Dariusz "Darek" Olszewski a speedy release and safe passage to rejoin his family in the United States.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution urging the release of Darek Olszewski to President Ronald Reagan, United States Senators Wendell Ford and Mitch McConnell, and the Ambassador of the Polish Government to the United States in Washington, D.C.

HR 87 was adopted by voice vote.

Representative Noland moved the adoption of the following Citation No. 35. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion and sincere regrets the untimely death of Robert T. Walker, Chief of Police, Irvine, Kentucky, who was killed in the line of duty February 16, 1986. He was a retired Lieutenant Colonel in the Kentucky National Guard and for more than seven years had been in law enforcement as the deputy Sheriff in Estill County before his appointment as Chief of Police. He had a high standard of professionalism accompanied by a kind and considerate human touch that manifested his competency and efficiency. It was said of him, by his friends and those who knew him, that he was a "vanishing breed," an "all around nice guy." His generosity to community and civic endeavors was exemplary of his humanitarian and benevolent spirit, as well as his voluntary involvement to help make his town a better and safer place in which to live. This prestigious body mourns his passing and extends our deepest sympathy to the family, staff and to all the Irvine community, as he will be greatly missed. We the House of Representatives do hereby adjourn in his memory. (Sponsored by Representative Noland)

Representative Maggard moved that he be recorded as voting "Yea" on HB 449. Agreed.

Representative Cowan moved that he be recorded as changing his vote from "Nay" to "Abstain" on HB 497. Agreed.

Representative Jensen moved that he be recorded as voting "Yea" on HB 428. Agreed.

Representative Jensen moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 282. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative P. Clark, HB 452; Representative Farrow, HB 665; Representative Ford, HB 245; Representative Heleringer, HB 676; Representative Kerr, HB 193, HB 433, HB 510; Representative P. Richardson, HB 709.

The following meetings were announced:

Judiciary-Criminal: Special Meeting on adjournment February 20, 1986, Room 104.

Judiciary-Criminal: Friday, February 21, 1986, 8:00 a.m.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 631, by Representative Smith:

Amend printed copy of HB 631:

On page 47, line 13 by deleting "*two*"

On page 47, line 13 by removing the brackets and strikethrough around the word "one"

On page 47, line 14 by deleting "*(2%)*".

Floor Amendment No. 1 to HB 443, by Representative Mann:

Amend printed copy of HB 443:

On page 1, line 7, by deleting "*all*" and adding in lieu thereof "*the*";

and on page 1, after line 13, by adding the following:

"*(3) The standards established for pipelines under this section shall take into account the size, pressure and use of various types of pipelines, and the commission shall not apply standards to a pipeline or line which are more costly or stringent than are needed to ensure the safety to all persons of its use.*"

Floor Amendment No. 1 to HB 263, by Representative Long:

Amend printed copy of HB 263:

On page 2, on lines 1 through 13,

by deleting subsection (d) in its entirety and

by inserting in lieu thereof the following:

"*(d) 'Confidential communication' means all information received by a sexual assault counselor which has been transmitted between the victim and the sexual assault counselor which:*

"*1. Was believed by the victim to have been disclosed in confidence;*

"*2. The victim believes will not be disclosed to any other person except persons to whom disclosure is reasonably necessary for the accomplishment of the purpose for which the victim sought the assistance of the sexual assault counselor;*

"*3. The victim believes will not be disclosed by any other person present at the time the victim is disclosing the information to the sexual assault counselor.*

"*Information which must be disclosed pursuant to subsection (3) of this Section shall not be considered as a confidential communication.*"

On page 2, line 21,

by adding a new subsection 3 to read as follows:

"*(3) The privilege established by this section shall not apply:*

(a) In matters of proof concerning chain of custody of evidence;

(b) In matters of proof concerning the physical appearance of the victim at the time of the injury;

(c) Where the sexual assault counselor has knowledge that the victim has given perjured testimony and the defendant or the state has given notice to the court that perjury may have been committed; or

(d) To any information revealed by a victim which relates to the identity of the victim's assailant."

Floor Amendment No. 1 to Committee Substitute to HB 544, by Representative Pearman:

Amend printed copy of Committee Substitute to HB 544:

On page 1, line 7 by adding the following language after the word "*fee*": "*, not to exceed one-fifth (1/5) of the value of the loan per month,*"

Floor Amendment No. 2 to HB 470, by Representative Meyer:

Amend printed copy of HB 470:

On page 1, line 9, add the following new section:

Section 2. KRS 95.786 is amended to read as follows:

The chief and members of the police force in cities of the *fourth and* fifth class may make arrests anywhere in the county in which the city is located, but shall not be required to police any territory outside of the city limits.

Floor Amendment No. 1 to HB 176, by Representative Pearman:

Amend printed copy of HB 176:

On page 4, line 5, by inserting after the word "*pension*" the following:

"*which does not exceed five hundred dollars ($500) monthly*".

Floor Amendment No. 1 to HB 143, by Representative Handy:

Amend printed copy of HB 143:

On page 6, line 26, insert after the word "*rabbi,*" the words "*christian science practitioner,*".

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 21, 1986.

On the roll call the vote was yeas 88—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holbrook, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Seum, Siler, Smith, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates. Nays 2—Guenthner, Holloway.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 21, 1986

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend John Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Stone.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 20, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 728, by Representative Gray: AN ACT relating to occupational safety and health of employes.

HB 729, by Representatives Ford, Napier, Bronger and Stewart: AN ACT relating to auctioneers.

HB 730, by Representatives Ford and Napier: AN ACT relating to auction houses.

HB 731, by Representatives Blevins, Moberly, Richards, Priddy and Curd: AN ACT relating to campus police.

HB 732, by Representatives Blevins, Noe and Richards: AN ACT relating to education.

HB 733, by Representatives Blevins, Stumbo, Burch, Scorsone, Rose, Pritchett, Mack, Strong, Clarke, P. Richardson, Crupper and Little: AN ACT relating to the sale of new motor vehicles.

HB 734, by Representative Blevins: AN ACT relating to eminent domain.

HB 735, by Representatives Heleringer and Lile: AN ACT relating to motor vehicle registration plates.

HR 89, by Representative Lyne: A RESOLUTION in memory of Granville Clark.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 712, HB 717, HB 725.

Banking and Insurance: HB 709, HB 723.

Business Organizations and Professions: HB 718.

Cities: HB 714.

Counties and Special Districts: HB 721, HB 716.

Education: HB 727.

Health and Welfare: HB 708.

Judiciary-Civil: HB 711, HB 719.

Judiciary-Criminal: HB 726.

Labor and Industry: HB 710, HB 724.

Natural Resources and Environment: HB 715.

Transportation: HB 713, HB 722.

Report of Committees

The Committee on Rules reported HB 43, HB 143, HB 144, HB 150, HB 401, HB 451, HB 464, HB 557, HB 571, HR 69, HCR 20, HCR 39 and HB 317 have been posted for passage in Orders of the Day, February 24, 1986.

The Committee on Rules reported HB 117, HB 423 and HB 424 have been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Banking and Insurance: HB 709.

Report on Enrolled Bills

The Committee on Enrollment reported HB 210, HB 306 and HB 455 had been examined and found correctly enrolled. HB 210, HB 306 and HB 455 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 10:06 a.m.)

HB 210, HB 306 and HB 455 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report of Committees

The Committee on Judiciary-Criminal reported HB 211 and HB 344, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 211, AN ACT relating to general principles of liability for criminal offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 501.080 is amended to read as follows:

(1) Intoxication is a defense to a criminal charge only if such condition [~~either:~~

~~(1) Negatives the existence of an element of the offense; or~~

~~(2)~~] is not voluntarily produced and deprives the defendant of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

(2) Voluntary intoxication shall not negate the existence of an element of a criminal offense.

HB 344, AN ACT relating to permits to carry concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Alcohol abuser" means an individual who has had two (2) or more alcohol related offenses, any one (1) of which resulted in conviction by a court or treatment in an alcohol abuse facility within three (3) years prior to the date of the application;

(2) "Commissioner" means the commissioner of the Kentucky state police;

(3) "Drug abuser" means an individual who has had two (2) or more violations of KRS Chapter 218A, any one (1) of which resulted in conviction by a court or treatment in a drug abuse facility within five (5) years prior to the date of application;

(4) "Firearm" means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion;

(5) "Handgun" means any firearm:

(a) Designed or adapted so as to be aimed and fired from one (1) hand, regardless of barrel length; or

(b) Any firearm with:

1. A barrel less than sixteen (16) inches in length; or

2. An overall length of less than twenty-six (26) inches.

(6) "Proper person" means a person who does not:

(a) Have a conviction for resisting law arrest;

(b) Have a conviction for a crime for which he could have been sentenced for more than one (1) year;

(c) Have a record of being an alcohol or drug abuser as defined in this Act;

(d) Have documented evidence which would give rise to reasonable belief that he has a propensity for violent or emotionally unstable conduct;

(e) Make a false statement of material fact on his application;

(f) Have a conviction for any crime involving an inability to safely handle a handgun;

(g) Have a conviction for violation of the provisions of this Act within five (5) years of his application;

(7) "Proper reason" means for the defense of oneself or the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) A person desiring a license to carry a handgun concealed shall apply to:

(a) The chief of police or corresponding law enforcement officer of the municipality in which he resides;

(b) If that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which he resides after he has obtained an application form prescribed by the commissioner.

(2) The law enforcement agency which accepts an application for a concealed handgun license shall collect a ten dollar ($10.00) application fee, five dollars ($5.00) of which shall be refunded if the license is not issued. The fee shall be:

(a) Deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund; and

(b) Used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

The state auditor shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(3) The officer to whom the application is made shall ascertain concerning the applicant his name, full address, length of residence in the community, whether his residence is located within the limits of any city or town, occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, six, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held a Kentucky license to carry a concealed handgun and, if so, the serial number of the license and year issued, whether his license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with his recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the commissioner.

(4) The commissioner may make whatever further investigation he deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the commissioner and the applicant with his complete and specific reasons, in writing, for the recommendation of disapproval.

(5) If it appears to the commissioner that the applicant has a proper reason for carrying a concealed handgun and is of good character and reputation and a proper person to be so licensed, he shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the commissioner for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

(6) A license to carry a concealed handgun shall not be issued to any person who has been convicted of a felony or who is under eighteen (18) years of age. The commissioner shall prescribe by administrative regulation all forms to be used in connection with the administration of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) Licenses to carry concealed handguns shall be either qualified or unlimited. A qualified license shall be issued for hunting and target practice. The commissioner may adopt rules imposing limitations on the use and carrying of concealed handguns under a license when handguns are carried by a licensee as a condition of his employment. Unlimited licenses shall be issued for the purpose of the protection of life and property.

(2) In addition to the application fee, the fee for a qualified license shall be five dollars ($5.00), and the fee for an unlimited license shall be fifteen dollars ($15.00). These fees shall be deposited by the commissioner with the state treasurer. However, police officers, sheriffs or their deputies, and law enforcement officers of this state and the United States who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of active service, shall pay no fee for a qualified license or an unlimited license.

SECTION 4. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke any license issued under this Act if he has reasonable grounds to believe that the person's license should be suspended or revoked.

(2) Failure of a person to promptly return his license after written notice of suspension or revocation is a Class A misdemeanor.

(3) The commissioner shall establish administrative regulations concerning the procedure for suspending or revoking a person's license.

SECTION 5. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

Every initial application for any license under this Act shall be granted or rejected within sixty (60) days after *the application is filed. If the application for renewal of an existing license is filed within thirty (30) days of its expiration, the existing license is automatically extended until the application for renewal is passed upon.*

Section 6. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) *Persons authorized by Sections 1 through 4 of this Act may carry concealed handguns at any time and any location within the Commonwealth of Kentucky, unless the terms and conditions of their license specify to the contrary, in which case they may carry concealed handguns according to the terms and conditions of the license.*

(5) A deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism.

(6)[~~(5)~~] Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

The Committee Substitute to HB 344 is as follows:

HB 344, AN ACT relating to permits to carry concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) A deadly weapon shall not be deemed concealed on or about the person if*:*

(a) It is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism; or

(b) Is completely encased in a container equipped with a zipper, snaps, or other similar closure, provided the closure is completely closed and no portion of the deadly weapon is accessible without opening the closure [~~it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism~~].

(5) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

Section 2. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) *All firearms forfeited pursuant to any section of this code which are not retained for official use shall be sold at public auction and the proceeds obtained therefrom be placed in the state treasury for the purpose of paying benefits to the next of kin of police officers killed in the line of duty. Other* property which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state if the property was seized by an agency of the state or peace officer thereof;

2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;

3. The department of fish and wildlife resources, if the property was seized by a peace officer of the department of fish and wildlife or was seized by any other officer for violation of KRS Chapter 150;

4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;

5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds) if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or

6. The state, if the property was seized by any combination of agencies listed above.

(c) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(d) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky state police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120 the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section, who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Calendar

HB 490, HB 485, HB 628, HB 316, HB 392, HB 511, HB 75, HB 400, HB 416, HB 454, HB 502, HB 555, HB 572, HB 592, HB 608, HJR 28, HCR 65, SB 2, SB 10, SB 13, SB 51, SB 53, SB 57, SB 158, HB 444, HB 446, HB 29, HB 78, HB 500, HB 521, HB 603 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 443, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to HB 443. Agreed.

Representative Mann moved that HB 443, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 21, 1986, roll call on HB 443—Appendix A.)

HB 443, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which HB 443, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 72 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that SB 72 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 21, 1986, roll call on SB 72—Appendix A.)

SB 72 was passed and the title agreed to.

Representative R. Jones moved that the vote by which SB 72 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 544, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Substitute to HB 544. Agreed.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to HB 544. Agreed.

Representative Pearman moved that HB 544, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See February 21, 1986, roll call on HB 544—Appendix A.)

HB 544, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 544, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 61, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 2 to HB 61. Agreed.

Representative Barrows moved the adoption of the Floor Amendment No. 1 to HB 61.

On the roll call the vote was yeas 66—Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gray, Gregory, Handy, J. Harper, K. Harper, Heleringer, Hines, Johnson, R. Jones, T. Jones, Kerr, Lear, Lefevers, LeMaster, Lile, Little, Long, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Priddy, Reinhardt, Richards, Riner, Rose, Scorsone, Stewart, Strong, Stumbo, Thomas, White, Worthington, Yates. Nays 25—Allen, Bruce, Burnette, Clapp, Crupper, Ellington, Gedling, Guenthner, Hancock, Head, Holbrook, Holloway, Layman, Lyne, Morris, Preston, Pritchett, Rapier, B. Richardson, P. Richardson, Seum, Siler, Todd, Turner, Williams.

Floor Amendment No. 1 to HB 61 was adopted.

Representative Brinkley moved HB 61, as amended, be passed.

On the roll call the vote was: Yeas 60, Nays 29. (See February 21, 1986, roll call on HB 61—Appendix A.)

HB 61, as amended, was passed and the title agreed to.

Representative Brinkley moved that the vote by which HB 61, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 69, SB 98 and SB 178 had been examined and found correctly enrolled. SB 69, SB 98 and SB 178 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 10:22 a.m.)

Senate Message

Announcing passage of SB 124, SB 199, SB 212, SB 239, SB 250, SB 256, SB 263, HB 477 with Senate Amendment, HB 23, HB 389.

Orders of the Day (Cont'd)

HB 124, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Committee Substitute to HB 124. Agreed.

Representative Brinkley moved that HB 124, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 21, 1986, roll call on HB 124—Appendix A.)

HB 124 by way of Committee Substitute, was passed and the title agreed to.

Representative Brinkley moved that the vote by which HB 124, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 263, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Floor Amendment No. 1 to HB 263. Agreed.

Representative Long moved that HB 263, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 21, 1986, roll call on HB 263—Appendix A.)

HB 263, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which HB 263, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 470, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of the Floor Amendment No. 1 to HB 470. Agreed.

Representative Priddy moved that HB 470, as amended, be passed.

Representative Meyer moved the adoption of Floor Amendment No. 2 to HB 470.

On the roll call the vote was yeas 44—Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Burch, L. Clark, P. Clark, Curd, Cyrus, Dawahare, Donnermeyer, Handy, J. Harper, Heleringer, Holbrook, T. Jones, Kerr, Lefevers, Long, Mack, McBee, McElroy, McNutt, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Richards, Seum, Strong, Stumbo, Williams, Yates. Nays 25—Barrows, Burnette, Clapp, Clarke, Farrow, Freibert, Gray, Guenthner, Layman, Little, Lyne, Mann, Overstreet, Preston, Rattliff, Reinhardt, B. Richardson, P. Richardson, Rose, Scorsone, Siler, Stewart, Thomas, Todd, Turner.

Floor Amendment No. 2 to HB 470 was adopted.

Representative Priddy moved that HB 470, as amended, be passed.

On the roll call the vote was: Yeas 41, Nays 43 (See February 21, 1986, roll call on HB 470—Appendix A.)

HB 470, as amended, was defeated.

HB 353 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that HB 353 be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 21, 1986, roll call on HB 353—Appendix A.)

Representative Napier moved that the vote by which HB 353 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 412 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved that HB 412 be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See February 21, 1986, roll call on HB 412—Appendix A.)

HB 412 was passed and the title agreed to.

Representative Seum moved that the vote by which HB 412 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved that HB 540 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 21, 1986, roll call on HB 540—Appendix A.)

HB 540 was passed and the title agreed to.

Representative Gregory moved that the vote by which HB 540 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 582 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that HB 582 be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 21, 1986, roll call on HB 582—Appendix A.)

HB 582 was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 582 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that HB 596 be passed.

On the roll call the vote was: Yeas 68, Nays 19. (See February 21, 1986, roll call on HB 596—Appendix A.)

HB 596 was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 596 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 607 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that HB 607 be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 21, 1986, roll call on HB 607—Appendix A.)

HB 607 was passed and the title agreed to.

Representative O'Brien moved that the vote by which HB 607 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 612 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dawahare moved that HB 612 be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See February 21, 1986, roll call on HB 612—Appendix A.)

HB 612 was passed and the title agreed to.

Representative Dawahare moved that the vote by which HB 612 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 51, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that HCR 51 be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See February 21, 1986, roll call on HCR 51—Appendix A.)

HCR 51 was passed and the title agreed to.

Representative Freibert moved that the vote by which HCR 51 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of the Committee Substitute to HB 202. Agreed.

Representative R. Jones moved that HB 202, by way of Committee Substitute be passed.

On the roll call the vote was: Yeas 80, Nays 2. (See February 21, 1986, roll call on HB 202—Appendix A.)

HB 202, by way of Committee Substitute, was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 202, by way of Committee Substitute was passed be reconsidered and said motion be placed on the table. Agreed.

HB 524 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that HB 524 be passed.

On the roll call the vote was: Yeas 85, Nays 3. (See February 21, 1986, roll call on HB 524—Appendix A.)

HB 524 was passed and the title agreed to.

Representative Cline moved that the vote by which HB 524 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 23 and HB 389 had been examined and found correctly enrolled. HB 23 and HB 389 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 11:13 a.m.)

Orders of the Day (continued)

HB 526 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that HB 526 be passed.

On the roll call the vote was: Yeas 82, Nays 0. (See February 21, 1986, roll call on HB 526—Appendix A.)

HB 526 was passed and the title agreed to.

Representative Holbrook moved that the vote by which HB 526 was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 736, by Representative Clarke: AN ACT relating to property taxation.

HB 737, by Representative McNutt: AN ACT relating to the determination of death.

HB 738, by Representative P. Clark: AN ACT relating to pensions for police in cities of the first class.

HB 739, by Representatives Smith and Richards: AN ACT relating to sales tax.

HB 740, by Representatives Little, Deskins, Stumbo, Cyrus and Maggard: AN ACT relating to the railroad commission.

HB 741, by Representatives Riner, Yates and Bronger: AN ACT relating to the crime victims compensation board and declaring an emergency.

HB 742, by Representatives Donnermeyer and Mann: AN ACT relating to the volunteer fire department aid fund.

HB 743, by Representatives Donnermeyer and Mann: AN ACT relating to hazardous materials incidents.

HB 744, by Representatives Donnermeyer and Mann: AN ACT relating to fire departments.

HB 745, by Representatives Richards, Clapp, Lyne, Burnette, White and Smith: AN ACT relating to utilities in cities.

HB 746, by Representatives J. Harper, Turner, Allen, Arnold, Blevins, Brinkley, Bronger, F. Brown, Bruce, Burch, L. Clark, P. Clark, Cline, Curd, Dawahare, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, Handy, K. Harper, Head, Holloway, Jensen, Johnson, Keith, Kerr, Layman, Lefevers, Lyne, Maggard, McElroy, McNutt, Morris, Napier, Noland, O'Brien, Pritchett, Reinhardt, Richards, P. Richardson, Riner, Rose, Seum, Siler, Smith, Stewart, Todd, Williams, Worthington and Yates: AN ACT relating to education.

HB 747, by Representative Burch: AN ACT relating to creation of a developmental disabilities planning council.

HB 748, by Representative Burnette: AN ACT relating to bovine animals.

HB 749, by Representatives Hancock and Gregory: AN ACT relating to budget and financial administration.

HB 750, by Representatives Cyrus, Overstreet and Deskins: AN ACT relating to places of entertainment.

HB 751, by Representative Blevins: AN ACT relating to parenthood and human growth and development education.

HB 752, by Representative Gedling: AN ACT relating to legal notices.

HR 90, by Representatives LeMaster, Lear, B. Richardson, Farrow, Long, Stewart, Freibert, Mack and Scorsone: A RESOLUTION adjourning the House of Representatives in memory and in honor of Tommy Bell.

HR 91, by Representative Williams: A RESOLUTION celebrating the 150th anniversary of the county of Clinton and commending the residents thereof.

HR 92, by Representatives Williams and Overstreet: A RESOLUTION honoring former legislator O. E. "Cotton" Durham.

HR 93, by Representatives Williams and Overstreet: A RESOLUTION honoring former legislator David Heskamp.

HR 94, by Representatives Williams and Overstreet: A RESOLUTION honoring former legislator T. M. "Buck" Watson.

HR 95, by Representatives Burnette, Bruce and Cowan: A RESOLUTION relating to tobacco.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: HB 721.

Judiciary-Civil: HB 518, HB 519.

Education: HB 671.

State Government: HB 111, HB 131, HB 192, HB 214, HB 215, HB 284, HB 419, HB 520, HB 556, HB 558. HB 632, HB 86.

Business Organizations and Professions: HB 329, SB 208.

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee Consideration:

State Government: HB 156, HB 128, HCR 23.

Report of Committees

The Committee on Judiciary-Criminal reported HB 17 with Committee Amendments attached thereto, HB 305 with Committee Amendment attached thereto, HB 453, HB 535, with Committee Substitute and Committee Amendment attached thereto, and HB 588 with Committee Amendments attached thereto, with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 17, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

In determining offenses and punishments under this chapter wherein prior offenses are involved, offenses committed prior to July 13, 1984 shall be given the same weight and effect as offenses committed after that date and this section shall be deemed to be retroactive with regard thereto.

The Committee Amendment No. 1 to HB 17 is as follows:

Amend printed copy of HB 17:

On page 1, line 3, before the word "*In*" by adding the following:

"*Subject to the five year limitation in KRS 189A.010,*"

The Committee Amendment No. 2 to HB 17 is as follows:

Amend printed copy of HB 17:

On page 1, line 4, by deleting "*offenses*" and by inserting in lieu thereof, the word "*convictions*" and

on page 1, line 5, by deleting "*committed*" and

on page 1, line 6, by deleting "*offenses committed*" and by inserting in lieu thereof, "*convictions*"

HB 305, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 501 IS CREATED TO READ AS FOLLOWS:

Whenever a statute permits the use of a defense of extreme emotional disturbance to negate any element of the offense or change the offense to a lesser offense, the defendant shall have the burden of proving the extreme emotional disturbance beyond a reasonable doubt.

The Committee Amendment No. 1 to HB 305 is as follows:

Amend printed copy of HB 305:

Page 1, line 7, delete "*beyond a reasonable doubt*" and insert in lieu thereof, "*by a preponderance of the evidence*"

HB 453, AN ACT relating to decency in cable television programming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) No person shall send, transmit, or retransmit by a cable television system material which is indecent. For the purposes of this section, material is indecent when, under contemporary community standards for cable television, it is patently offensive and is a representation or verbal description of:

(a) Ultimate sexual acts, normal or perverted, actual or simulated;

(b) Masturbation;

(c) Human sexual or excretory organs or functions; or

(d) A display, description or representation in lurid detail of the violent physical torture or dismemberment of a person.

(2) For the purposes of this section the term "material" includes visual and audible material and "community standards" means standards of the community encompassed within the territorial area covered by the franchise.

(3) Any person who violates the provisions of this section is guilty of a Class A misdemeanor. A person who, after having been convicted of a violation of this section, thereafter violates any of its provisions, is guilty of a Class D felony.

HB 535, AN ACT relating to sexual offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet may operate a specialized treatment program for sexual offenders, hereinafter referred to as the "program."

SECTION 2. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) A "sexual offender" as used in this chapter is an individual who has been adjudicated guilty of any felony described in KRS Chapter 510, any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510, or any felony the commission of which is primarily related to committing or attempting to commit one of the offenses described in KRS Chapter 510.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court of cabinet officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation;

(b) Is likely to commit additional offenses as described in KRS Chapter 510; or

(c) Evidences a desire to participate in the program.

(3) "Cabinet" is the corrections cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) The corrections cabinet shall have the sole authority and responsibility for establishing the design of the specialized program created in this Act.

(2) The corrections cabinet may transfer sexual offenders sentenced to their custody to the program and shall adopt rules and regulations concerning the transfer of sexual offenders.

(3) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates.

SECTION 4. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with public or private agencies in order to implement and operate the program created by this Act.

The Committee Substitute to HB 535 is as follows:

HB 535, AN ACT relating to sexual offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet shall operate a specialized treatment program for sexual offenders, hereinafter referred to as the "program."

SECTION 2. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) A "sexual offender" as used in this chapter is an individual who has been adjudicated guilty of any felony described in KRS Chapter 510 or any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or cabinet officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; or

(b) Is likely to commit additional offenses as described in KRS Chapter 510.

(3) "Cabinet" is the corrections cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) The corrections cabinet shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in this Act.

(2) The program shall include diagnostic and treatment services in both in-patient and out-patient environments:

(a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening and pre-release evaluation;

(b) "Treatment services" shall include individualized treatment plans incorporating components of psychotherapy to include individual, group, marital, family; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management and aggression management; and

(c) The cabinet shall have the authority and responsibility for establishing such other educational and work programs necessary to complement treatment program objectives.

(3) The corrections cabinet may transfer sexual offenders sentenced to its custody to the program and shall adopt rules and regulations concerning the transfer of sexual offenders.

(4) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the cabinet's standard classification system.

(5) The treatment staff of the program shall minimumly consist of the following staff:

(a) A program director who has at least a master's degree in an applied mental health field and six (6) years clinical experience or a doctoral degree in an applied mental health field and four (4) years clinical experience. The director shall decide program policies and supervise all staff;

(b) A clinical psychologist for each two hundred (200) participants; and

(c) A counselor for each fifty (50) participants.

(6) The cabinet shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism.

SECTION 4. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with public or private agencies in order to implement and operate the program created by this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

Communications relative to a sexual offender's diagnosis and treatment in the program, made between a sexual offender or member of the offender's family and any employe of the cabinet who is assigned to work in the program, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents to the disclosure. The privilege created by this section shall not extend to disclosures made in an administrative hearing for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created herein.

Section 6. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission and at such intervals thereafter as it may determine, the corrections cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The corrections cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The corrections cabinet shall prepare a report on such information as it obtains. It shall be the duty of the corrections cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one (1) or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) *No eligible sexual offender within the meaning of this Act shall be considered for parole unless he has successfully completed the sexual offender treatment program as indicated by officials of that program.*

(5) Any prisoner who is granted parole after completion of the sexual offender treatment program may be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the corrections cabinet.

(6) Whenever an order for parole is issued it shall recite the conditions thereof.

The Committee Amendment No. 1 to the Committee Substitute to HB 535 is as follows:

Amend printed copy of Committee Substitute to HB 535:

Page 1, line 18, by deleting the word "or" after ";" and substituting in lieu thereof the word "and";

Page 1, lines 19 and 20, by deleting such language in its entirety, and substituting therefore the words "is likely to benefit from the program."

Page 6, line 10, by deleting the language "considered for" and substituting in lieu thereof the word "granted"

Page 6, line 12, after the word program, by adding "." and deleting the language "as indicated by official of that program."

Page 6, line 14, by deleting the word "may" and substituting in lieu thereof the word "shall"

HB 588, AN ACT relating to criminal records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been charged with, arrested for, or issued a citation for a violation or a misdemeanor or who has been charged with, arrested for or indicted for a felony and who has been found not guilty by a judge or jury, or against whom the charges have been dismissed may apply to have all records of those charges purged from all public records in this Commonwealth.

(2) Applications shall be directed to the court in which the verdict or dismissal was rendered or in which court the case would have been tried in the event of matters dismissed in preliminary proceedings.

(3) If the court finds that the conditions of subsection (1) have been met, the court shall issue appropriate orders to state and local agencies to purge the charge, arrest, indictment, fingerprint, photographic, and other records with regard thereto from their files and from all computerized records maintained in the Commonwealth and shall enter the fact of the purging in the appropriate records of all federal or other agencies with whom the records were shared or to which they were released.

(4) Charges, arrests, citations, or indictments involved in actions to purge under this section, if purged, shall be deemed not to have occurred, and the person whose record has been purged shall not have to list the arrest or other action on any application or other form for any purpose, unless such is required by federal law.

(5) This section shall not apply to matters where there is a federal statute or regulation to the contrary.

The Committee Amendment No. 1 to HB 588 is as follows:

Amend printed copy of HB 588:

On page 1, line 8, following the word "*charges*" by adding the following: "*which has been discussed or for which there was a finding of not guilty*"

The Committee Amendment No. 2 to HB 588 is as follows:

Amend printed copy of HB 588:

On page 2, below line 11, by adding "*(6) This statute shall be deemed to be retroactive and shall apply to persons against whom charges have been dismissed or who have been found not guilty prior to the effective date of this Act as well as to those whose charges are dismissed or who are found not guilty after the effective date of this Act.*"

Representative LeMaster moved to suspend the rules to act on a Resolution. Agreed.

Representative LeMaster moved the adoption of the following HR 90:

HR 90, A RESOLUTION adjourning the House of Representatives in memory and in honor of Tommy Bell.

With deepest regret, we pay homage and tribute to a true Kentucky gentleman, Tommy Bell.

WHEREAS, Tommy Bell of Lexington, Kentucky, departed this life on February 20, 1986; and

WHEREAS, Tommy Bell was a beloved husband, father and grandfather; and

WHEREAS, this outstanding citizen was a very successful businessman, a highly regarded attorney and an esteemed member of the Kentucky Bar Association; and

WHEREAS, Tommy Bell distinguished himself as a referee in the National Football League, having been the referee in eight National Football League Championship games and two Super Bowl games; and

WHEREAS, Tommy Bell demonstrated his great leadership abilities as a member of the University of Kentucky Board of Trustees, the University of Kentucky Athletics Board and as chairman of the University of Kentucky Fellows-Executive Committee; and

WHEREAS, Tommy Bell was a member of the University of Kentucky Hall of Distinguished Alumni; and

WHEREAS, Tommy Bell devoted countless hours to numerous charitable and civic organizations; and

WHEREAS, Tommy Bell's generosity and affable manner will be sorely missed by those who had the good fortune of being associated with him; and

WHEREAS, the House of Representatives laments the loss of this invaluable civic leader;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its profound grief over the loss of Tommy Bell, a man who brought to his community the enthusiasm and optimism he displayed throughout his life.

Section 2. That the House extends its sincere and most heartfelt sympathy to his family.

Section 3. That when the House adjourns this day, February 21, 1986, it does so in honor and in memory of Tommy Bell.

Section 4. That a copy of this resolution be sent to Mrs. Leslie Bell and family.

HR 90 was adopted by voice vote.

Representative Lyne moved to suspend the rules to act on a Resolution. Agreed.

Representative Lyne moved the adoption of the following HR 89:

HR 89, A RESOLUTION in memory of Granville Clark.

With deepest respect we pay homage and tribute to the memory of our beloved friend, Granville Clark.

WHEREAS, Granville Clark traversed these earthly bounds on Wednesday, February 19, 1986; and

WHEREAS, Granville Clark was born in Logan County, Kentucky in 1919; and

WHEREAS, Granville Clark was a veteran of the United States Army; and

WHEREAS, Granville Clark was a prominent Russellville attorney; and

WHEREAS, this honorable gentleman served with distinction the people of Kentucky in his capacity as city attorney in Russellville, Adairville, and Auburn; and

WHEREAS, Granville Clark received national attention in the early 60's while representing property owners whose homes were bought out to clear the way for the establishment of TVA Land Between the Lakes for Western Kentucky, and even though his efforts failed, his clients were able to collect more money; and

WHEREAS, this outstanding citizen served as the Director of Citizens Security Life Insurance Company of Owensboro; and

WHEREAS, Granville Clark unselfishly dedicated many hours of his time to various organizations including the Council for Logan Rural Telephone Co-Operative, the Housing Authority of Russellville, the Kentucky Humanities Council, and served as president of the Logan County Historical Society, and governor of the Western Kentucky District Rotary Club; and

WHEREAS, Granville Clark was active in Shaker Revisited, Inc., and served as narrator of the annual pageant for 22 years; and

WHEREAS, Granville Clark altruistically served as Chairman of the Board of Directors of the Logan County Hospital and received a great deal of publicity in recent years as he fought to keep the hospital in county control; and

WHEREAS, a devout member of the United Methodist Temple, Granville Clark served as Sunday School Superintendent; and

WHEREAS, most importantly, he was a loving husband to his wife, Mary Rebecca, and a devoted father of two children and grandfather to four grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives laments the loss of Granville Clark and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives does adjourn this day, Friday, February 21, 1986, it does so in loving memory of Mr. Granville Clark.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the family of Granville Clark.

HR 89 was adopted by voice vote.

Representative Lile moved the adoption of the following Legislative Citation No. 37:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the VALLEY WOMEN'S CLUB, for your extraordinary contributions and the distinguished services you have provided for the community. Your laudable assistance made you a viable participant in the Sun Valley Community Center project as you provided the lights in the Ball Room and the Public Address System. We applaud you with profound appreciation for your most noteworthy endeavors in providing financial aid for the youth and the schools in your area. Your humanitarian spirit, your act of benevolence and dedication will reward and crown your efforts. Your club is recognized as an invigorating nucleus for providing for the needs of others and plays an indispensable role in making your community a better place in which to live.

This prestigious body salutes each individual member for the great honor and pride you have bestowed on your family, club, community and the Commonwealth of Kentucky. (Sponsored by Representative Lile)

Agreed.

Representative Williams moved to suspend the rules to act upon a Resolution. Agreed.

Representative Williams moved the adoption of the following HR 91:

HR 91, A RESOLUTION celebrating the 150th anniversary of the county of Clinton and commending the residents thereof.

WHEREAS, the 1836 General Assembly in its wisdom passed legislation to create the county of Clinton on February 20, 1836, and such legislation became effective on April 1 of that year; and

WHEREAS, the county of Clinton is deserving of official recognition of its 150 years as a political subdivision of the Commonwealth; and

WHEREAS, the county of Clinton is a unique place, caressed by the foothills of the Cumberland Plateau, the shores of Lake Cumberland and Dale Hollow Lake and the banks of the Cumberland River; and

WHEREAS, the natural resources of the county of Clinton are exemplary of those found all across the Commonwealth, such as limestone, coal, petroleum and fertile soil; and

WHEREAS, the relatively isolated location of the county of Clinton demands that the rest of the Commonwealth be made aware of its natural advantages and its impending sesquicentennial; and

WHEREAS, official recognition by the General Assembly would encourage residents of the county of Clinton to properly mark its 150th year; and

WHEREAS, Clinton County was the birthplace of two governors, Preston Leslie and Thomas Bramlette, and of such outstanding legislators as the late Senator Ed P. Warriner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly hereby celebrates the sesquicentennial of Clinton County, commends its residents for their place in the geography and history of the Commonwealth, and encourages them to join in the celebration of their achievement.

Section 2. That the Clerk of the House be directed to send a copy of this Resolution to the Clinton County Fiscal Court.

HR 91 was adopted by voice vote.

Representative Williams moved to suspend the rules to act on a Resolution. Agreed.

Representative Williams moved the adoption of the following HR 92:

HR 92, A RESOLUTION honoring former legislator O. A. "Cotton" Durham.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of those legislative members who have served before; and

WHEREAS, it is with pleasure and pride that we recall the distinguished service of those members; and

WHEREAS, the Honorable O. A. "Cotton" Durham did serve the House of Representatives of the Commonwealth of Kentucky during the 1970 Session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes the Honorable O. A. "Cotton" Durham and thanks him for his service to Adair County and the Commonwealth of Kentucky.

Section 2. That when the House adjourns this day, Friday, February 21, 1986, it does so in honor of O. A. "Cotton" Durham.

Section 3. That a copy of this resolution be sent to O. A. "Cotton" Durham.

HR 92 was adopted by voice vote.

Representative Williams moved the adoption of the following HR 93:

HR 93, A RESOLUTION honoring former legislator David Heskamp.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of those legislative members who have served before; and

WHEREAS, it is with pleasure and pride that we recall the distinguished service of those members; and

WHEREAS, the Honorable David Heskamp did serve the House of Representatives of the Commonwealth of Kentucky from 1954 to 1956;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes the Honorable David Heskamp and thanks him for his service to Adair County and the Commonwealth of Kentucky.

Section 2. That when the House adjourns this day, Friday, February 21, 1986, it does so in honor of David Heskamp.

Section 3. That a copy of this resolution be sent to David Heskamp.

HR 93 was adopted by voice vote.

Representative Williams moved the adoption of the following HR 94:

HR 94, A RESOLUTION honoring former legislator T. M. "Buck" Watson.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of those legislative members who have served before; and

WHEREAS, it is with pleasure and pride that we recall the distinguished service of those members; and

WHEREAS, the Honorable T. M. "Buck" Watson did serve the House of Representatives of the Commonwealth of Kentucky from 1962 to 1964;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes the Honorable T. M. "Buck" Watson and thanks him for his service to Adair County and the Commonwealth of Kentucky.

Section 2. That when the House adjourns this day, Friday, February 21, 1986, it does so in honor of "Buck" Watson.

Section 3. That a copy of this resolution be sent to "Buck" Watson.

HR 94 was adopted by voice vote.

Representative J. Harper moved the adoption of the following Legislative Citation No. 36:

The House of Representatives of the Commonwealth of Kentucky hereby honors, with profound respect, former Representatives O. A. "COTTON" DURHAM, DAVID HESKAMP and T. M. "BUCK" WATSON, of Adair County. This body hails these gentlemen for their leadership and active service to their district and to the Commonwealth of Kentucky. All members of this House wish to extend their gratitude to you for your insight, counsel and your legislative aptitude which you shared. We recognize you for the accomplishments and achievements that have made Kentucky a better place in which to live.

This prestigious body, therefore accord proudly our esteem, affection and fondest wishes for health and happiness as we adjourn in your honor. (Sponsored by Representative Williams)

Agreed.

Representative Deskins moved that he be recorded as changing his vote from "Yea" to "Nay" on HB 470. Agreed.

Representative Hancock moved that he be recorded as changing his vote from "Yea" to "Nay" on HB 61. Agreed.

Representative Hancock moved that he be recorded as voting "Nay" on HB 470. Agreed.

Representative Hancock moved that he be recorded as voting "Yea" on HB 582. Agreed.

Representative Ellington moved that he be recorded as voting "Yea" on HB 596. Agreed.

Representative Cyrus moved that he be recorded as voting "Yea" on HB 124. Agreed.

Representative J. Harper moved that he be recorded as changing his vote from "Abstain" to "Yea" on HCR 51. Agreed.

Representative Barrows moved that he be recorded as voting "Yea" on SB 72. Agreed.

Representative Burnette moved that HB 720 be withdrawn. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bronger, HR 90; Representative Blevins, HB 582; Representative Caldwell, HB 105, HB 578; Representative Dawahare, HB 353; Representative K. Harper, HB 578; Representative Lile, HB 263; Representative Richards, HB 677.

Announcements

The following meetings were announced:

Education: Budget Review, Friday, February 21, 1986, 1:30 p.m.

Labor and Industry: Tuesday, February 25, 1986, 8:30 a.m., Room 104.

Health and Welfare: Monday, February 24, 1986, 2 p.m., Room 104, (Subcommittee on Human Resources).

Judiciary-Criminal: Monday, February 24, 1986, 2 p.m., (Special Meeting).

Health and Welfare: Special meeting on adjournment, Tuesday, February 25, 1986, Room 109.

Budget Review on Commerce, Energy, Natural Resources: Monday, February 24, 1986, 2:30 p.m., Tuesday, February 25, 1986, 4:30 p.m., Room 103.

General Government Subcommittee on Budget, Monday, February 24, 1986, 1 p.m., Room 109.

Judiciary-Civil: Budget Subcommittee, Monday, February 24, 1986, 2 p.m., Room 110.

Judiciary-Criminal: Monday, February 24, 1986, 2 p.m.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Title Amendment to HB 344, by Representative Overstreet:

Amend printed copy of HB 344:

Page 1, the title, to delete "permits to carry"

Floor Amendment No. 1 to HB 521, by Representative Heleringer:

Amend printed copy of HB 521, by Representative Heleringer:

Amend printed copy of HB 521:

On page 5, line 1

after the word "*centers.*" by adding the following:

"*In allocating such surplus funds, there shall be no discrimination between residential and institutional services for the mentally retarded.*"

Floor Amendment No. 1 to HB 323, by Representative Johnson:

Amend printed copy of HB 323:

On page 15, line 5 by adding the following language after the period: "*However, in such cases, liability for child support shall not predate the initiation of action taken to determine paternity as set forth in KRS 406.021 if the action is taken four (4) years or more from the date of birth.*"

Floor Amendment No. 2 to HB 64, by Representative Crupper:

Amend printed copy of HB 64:

on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of *three hundred thousand dollars ($300,000)* [~~one million dollars ($1,000,000)~~] due to all bodily injuries or deaths per occurrence. Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

[~~(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.~~]

Floor Amendment No. 1 to HB 75, by Representative Noland:

Amend printed copy of HB 75:

On page 1, line 19, by inserting after the word "*suitable*" the words "*state operated or state supported.*"

Floor Amendment No. 1 to HB 150, by Representative Dawahare:

Amend printed copy of HB 150:

On page 4, line 18 by adding the following language following the period: "*In so far as possible, these funds shall be distributed evenly to each congressional district in the Commonwealth.*"

Adjournment

Representative Stumbo moved that the House adjourn until 4 p.m. on Monday, February 24, 1986.

On the roll call the vote was yeas 73—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Bronger, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, J. Harper, K. Harper, Hines, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Napier, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Strong, Stumbo, Thomas, Turner, White, Worthington, Yates. Nays 4—Blevins, Head, Holbrook, Williams.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 24, 1986

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 21, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 753, by Representative Deskins: AN ACT relating to motor vehicle insurance.

HB 754, by Representative Deskins: AN ACT relating to motor vehicle insurance.

HB 755, by Representative Deskins: AN ACT relating to motor vehicle insurance.

HB 756, by Representative Deskins: AN ACT relating to insurance.

HB 757, by Representative Deskins: AN ACT relating to surface coal mining.

HB 758, by Representative Deskins: AN ACT relating to the Kentucky pollution abatement authority and the water resources finance authority.

HB 759, by Representative Deskins: AN ACT relating to pest control.

HB 760, by Representatives Morris and Bruce: AN ACT relating to industrial loan companies.

HB 761, by Representative Reinhardt: AN ACT relating to crimes and punishments.

HR 96, by Representatives Bruce and Morris: A RESOLUTION requesting major oil companies to reduce gasoline prices in western Kentucky as they have in other parts of the state.

HR 97, by Representative LeMaster: A RESOLUTION adjourning the House of Representatives in honor of internationally renowned musicians Billy Gibbons, Dusty Hill and Frank Beard, Z Z Top.

Senate Message

Announcing passage of SB 134, SB 240, SB 257, SB 271, SB 274, SB 275, HB 48, HB 292, HB 434 and HB 460.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HR 95, HB 748.

Appropriations and Revenue: HB 736, HB 739, HB 749.

Business Organizations and Professions: HB 729, HB 730, HB 750, SB 212.

Cities: HB 738.

Counties and Special Districts: HB 742, SB 199.

Education: HB 732, HB 746, HB 751.

Energy: HB 728, HB 745.

Health and Welfare: HB 737, HB 747.

Judiciary-Civil: HB 734, HB 752, SB 239, SB 250, SB 263.

Judiciary-Criminal: HB 741, SB 124.

Natural Resources and Environment: HB 743, SB 256.

State Government: HB 731, HB 744.

Transportation: HB 733, HB 735, HB 740.

Report of Committees

The Committee on Rules reported HB 78, HB 392, HB 400, HB 444, HB 454, HB 485, HB 502, HB 511, HB 521, HB 555, HB 572, HB 592, HB 603, HB 608, SB 10, SB 13, SB 51, SB 53 and SB 57 have been posted in Orders of the Day, February 25, 1986.

The Committee on Rules reported the following Bill and Resolution have been recommitted:

Energy: HB 446.

Appropriations and Revenue: HCR 65.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: HB 294, HB 674, SB 130, HB 152.

Cities: HB 523, HB 666, HB 343, HB 738, SB 35, SB 207, SB 220, SJR 26.

Counties and Special Districts: HB 670, HB 537, HB 698.

Health and Welfare: HB 708.

State Government: HB 326, HR 86.

The Clerk announced the following Bills have been withdrawn from Committee Consideration:

Counties and Special Districts: HB 275.

State Government: HB 86.

Calendar

HB 211, HB 344, HB 17, HB 305, HB 453, HB 535 and HB 588 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 323, with Floor Amendment and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Floor Amendment No. 1 to HB 323. Agreed.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to HB 323. Agreed.

Representative Johnson moved that HB 323, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 24, 1986, roll call on HB 323—Appendix A.)

HB 323, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 323, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 135, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to HB 135. Agreed.

Representative Farrow moved that HB 135, by way of Committee Substitute, be passed.

Representative Overstreet moved the adoption of the Floor Amendment No. 1 to HB 135.

On the roll call the vote was yeas 34—Arnold, Barrows, Bendl, Bennett, Brinkley, M. Brown, L. Clark, Cline, Cyrus, Dawahare, Deskins, Ellington, Farrow, Heleringer, Holbrook, T. Jones, Keith, Layman, Lefevers, Maggard, Morris, Nett, Noe, Noland, Overstreet, Preston, Priddy, Pritchett, Riner, Scorsone, Stewart, Stone, Todd, Williams. Nays 48— Allen, Blevins, Burch, Burnette, Caldwell, Clapp, Cowan, Crupper, Curd, Donnermeyer, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Jensen, Kerr, Lear, Lile, Little, Long, Lyne, Mack, McBee, McElroy, McNutt, Meyer, Napier, O'Brien, Pearman, Rapier, Rattliff, Reinhardt, Richards, Rose, Siler, Smith, Strong, Stumbo, Turner, White, Worthington.

Floor Amendment No. 1 to HB 135 was rejected.

On the roll call the vote was: Yeas 80, Nays 8. (See February 24, 1986, roll call on HB 135—Appendix A.)

HB 135, by way of Committee Substitute, was passed.

Representative Farrow moved the adoption of the Committee Title Amendment to HB 135. Agreed, and the title was agreed to.

Representative Farrow moved that the vote by which HB 135, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Smith moved that HB 417 be passed.

On the roll call the vote was: Yeas 80, Nays 6. (See February 24, 1986, roll call on HB 417—Appendix A.)

HB 417 was passed and the title agreed to.

Representative Smith moved that the vote by which HB 417 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 176, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to HB 176. Agreed.

Representative Pearman moved that HB 176, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 24, 1986, roll call on HB 176—Appendix A.)

HB 176, as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 176, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that HB 43 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 24, 1986, roll call on HB 43—Appendix A.)

HB 43 was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 43 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 143, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Amendment No. 1 to HB 143. Agreed.

Representative Lear moved that HB 143, as amended, be passed.

Representative Handy moved the adoption of the Floor Amendment No. 1 to HB 143. Agreed.

Representative Lear moved that HB 143, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 16. (See February 24, 1986, roll call on HB 143—Appendix A.)

HB 143, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which HB 143, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 144, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of the Committee Substitute to HB 144. Agreed.

Representative Crupper moved that HB 144, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 69, Nays 20. (See February 24, 1986, roll call on HB 144—Appendix A.)

HB 144, by way of Committee Substitute, was passed and the title agreed to.

Representative Crupper moved that the vote by which HB 144, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 150, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that HB 150 be passed.

Representative Dawahare moved the adoption of the Floor Amendment No. 1 to HB 150. Agreed.

Representative Burnette moved that HB 150, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 10. (See February 24, 1986, roll call on HB 150—Appendix A.)

HB 150, as amended, was passed and the title agreed to.

Representative Burnette moved that the vote by which HB 150, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 401, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Substitute to HB 401. Agreed.

Representative McElroy moved that HB 401, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 24, 1986, roll call on HB 401—Appendix A.)

HB 401, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which HB 401, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

HB 23 and HB 389 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report on Enrolled Bills

The Committee on Enrollment reported HB 26, HB 48, HB 169, HB 178, HB 199, HB 264, HB 282, HB 292, HB 322, HB 434 and HB 460 had been examined and found correctly enrolled. HB 26, HB 48, HB 169, HB 178, HB 199, HB 264, HB 282, HB 292, HB 322, HB 434 and HB 460 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time: 4:47 p.m.)

HB 26, HB 48, HB 169, HB 178, HB 199, HB 264, HB 282, HB 292, HB 322, HB 434 and HB 460 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report on Enrolled Bills

The Committee on Enrollment reported SB 72 had been examined and found correctly enrolled. SB 72 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:50 p.m.)

Orders of the Day (Cont'd)

HB 557 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that HB 557 be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See February 24, 1986, roll call on HB 557—Appendix A.)

HB 557 was passed and the title agreed to.

Representative Hines moved that the vote by which HB 557 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 20 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that HCR 20 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 24, 1986, roll call on HCR 20—Appendix A.)

HCR 20 was passed and the title agreed to.

Representative Burnette moved that the vote by which HCR 20 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 39 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that HCR 39 be passed.

On the roll call the vote was: Yeas 84, Nays 4. (See February 24, 1986, roll call on HCR 39—Appendix A.)

HCR 39 was passed and the title agreed to.

Representative Barrows moved that the vote by which HCR 39 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment No. 1 to HB 317. Agreed.

Representative Bennett moved that HB 317, as amended, be passed.

On the roll call the vote was: Yeas 64, Nays 24. (See February 24, 1986, roll call on HB 317—Appendix A.)

HB 317, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 317, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 762, by Representative Nett: AN ACT relating to animals and biomedical research pertaining thereto.

HB 763, by Representative Seum: AN ACT relating to motor vehicle insurance data.

HB 764, by Representative Donnermeyer: AN ACT relating to sick leave for teachers.

HB 765, by Representative J. Harper: AN ACT relating to local government.

HB 766, by Representative Hancock: AN ACT relating to the taxation of motor fuels.

HB 767, by Representative Deskins: AN ACT relating to workers' compensation.

HB 768, by Representative Deskins: AN ACT relating to surface coal mining.

HB 769, by Representative Deskins: AN ACT relating to insurance.

HR 98, by Representatives Noe and Strong: A RESOLUTION honoring and commending Cawood Ledford, a Kentucky legend.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: SB 82, SB 83 and SB 91.

Agriculture and Small Business: HR 95.

Appropriations and Revenue: HB 236, HB 245, HB 298, HB 403, HB 432, HB 448, HB 507, HB 512, HB 651, HB 655, HB 149, HB 205, HB 522, SB 182 and HCR 65.

Natural Resources and Environment: HB 121 and HJR 81.

Judiciary-Criminal: HB 642 and HB 726.

Representative Bruce moved to suspend the rules to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of HR 96.

HR 96, A RESOLUTION requesting major oil companies to reduce gasoline prices in western Kentucky as they have in other parts of the state.

WHEREAS, OPEC is in disarray, the price of crude oil has plummented in recent months, and motorists finally are enjoying affordable gasoline prices; and

WHEREAS, reductions in gasoline prices have not been uniform across the state, and prices in western Kentucky continue to be considerably higher than those in central Kentucky; and

WHEREAS, major companies, including Delta, Ashland, Chevron, and Gulf, are keeping prices high in western Kentucky while charging much less, yet certainly still making a profit, elsewhere to the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That customers throughout the state should have the opportunity to benefit from gasoline price reductions.

Section 2. Major chains of gasoline service stations, including Delta, Ashland, Chevron, and Gulf in particular, are urged to lower the prices they charge in western Kentucky as they have lowered prices in other parts of the state.

HR 96 was adopted by voice vote.

Representative LeMaster moved to suspend the rules to act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of HR 97.

HR 97, A RESOLUTION adjourning the House of Representatives in honor of internationally renowned musicians Billy Gibbons, Dusty Hill and Frank Beard, Z Z Top.

WHEREAS, in 1969 Billy Gibson, Dusty Hill and Frank Beard, native sons of the Lone Star State, formed a band known as Z Z Top which has become an unprecedented phenomenon in the music industry; and

WHEREAS, Billy Gibbons, Dusty Hill and Frank Beard have been pounding out their unique blend of Texas-style blues to an international following for over fifteen years; and

WHEREAS, eliminating the competition, Billy Gibbons, Dusty Hill and Frank Beard released their ninth album in 1983 which grossed six million dollars domestically and four million dollars overseas; and

WHEREAS, the last four Z Z Top albums have sold fifteen million copies in the United States alone; and

WHEREAS, late in 1985 Z Z Top released their tenth album with Billy Gibbons, Dusty Hill and Frank Beard currently in the middle of a world-wide promotional tour; and

WHEREAS, rumours been goin' round that Bluegrass town that a little 'ol band from Texas, sharply dressed and wearin' cheap sunglasses, will fill Rupp Arena to capacity on Monday, February 24th with fans of all ages; and

WHEREAS, in that fine Texas tradition of playin' hi-fi and low-fi, Z Z will be toppin themselves this night, for with these tres hombres everyday is something new and we want to thank you; and

WHEREAS, Billy Gibbons, Dusty Hill and Frank Beard are not only bad but are nationwide;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly extends the hospitality of the Commonwealth to Billy Gibbons, Dusty Hill and Frank Beard, artists and musicians extraordinaire.

Section 2. That this honorable body hails Billy Gibbons, Dusty Hill and Frank Beard for their commitment and dedication to excellence in the field of entertainment and for their diligent perseverence in Z Z Top's quest for stardom.

Section 3. That the House commends Billy Gibbons, Dusty Hill and Frank Beard for their devotion to the millions of fans of Z Z Top and for the immeasurable contributions they have made to the recording industry.

Section 4. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Monday, February 24, 1986, it does so in honor of Billy Gibbons, Dusty Hill and Frank Beard, Z Z Top.

Section 5. That the Clerk of the House is directed to transmit a copy of this resolution to the members of Z Z Top through legislative staff on the evening of February 24, 1986.

HR 97 was adopted by voice vote.

Representative Gedling moved that the vote by which HB 452 was defeated be reconsidered.

On the roll call the vote was yeas: 44—Bennett, Blandford, Blevins, Bronger, M. Brown, Burch, Burnette, Clapp, L. Clark, P. Clark, Cowan, Cyrus, Dawahare, Donnermeyer, Ellington, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, Hines, Layman, Lear, Lile, Long, Lyne, Meyer, Noe, Noland, Pearman, Priddy, Pritchett, Rapier, Richards, Riner, Rose, Scorsone, Strong, Thomas, Turner, White, Worthington, Yates. Nays 44—Allen, Arnold, Barrows, Bendl, Brinkley, F. Brown, Bruce, Caldwell, Clarke, Cline, Crupper, Curd, Farrow, Ford, Freibert, Hancock, K. Harper, Head, Heleringer, Holbrook, Jensen, Johnson, R. Jones, Keith, Lefevers, LeMaster, Mack, McBee, McElroy, McNutt, Moberly, Morris, Napier, Nett, O'Brien, Overstreet, Rattliff, Reinhardt, B. Richardson, P. Richardson, Stone, Stumbo, Todd, Williams.

The motion that the vote by which HB 452 was defeated be reconsidered was rejected.

Representative Farrow moved that the vote by which the motion that the vote by which HB 452 was defeated be reconsidered was rejected be reconsidered and that said motion be placed on the table.

On the roll call the vote was yeas 39—Allen, Arnold, Barrows, Bendl, Brinkley, F. Brown, Caldwell, Clarke, Cline, Cyrus, Farrow, Ford, Hancock, K. Harper, Head, Heleringer, Holbrook, Johnson, Keith, Lear, Lefevers, LeMaster, Mack, McBee, McElroy, Moberly, Napier, Nett, O'Brien, Overstreet, Rattliff, B. Richardson, P. Richardson, Stone, Strong, Stumbo, Todd, White, Williams. Nays 42—Bennett, Blevins, Bronger, M. Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cowan, Dawahare, Donnermeyer, Ellington, Gedling, Gray, Guenthner, Handy, J. Harper, Hines, T. Jones, Kerr, Layman, Lile, Long, Lyne, Meyer, Noe, Noland, Pearman, Priddy, Pritchett, Rapier, Richards, Riner, Scorsone, Seum, Stewart, Thomas, Turner, Worthington, Yates.

The motion that the vote by which HB 452 was defeated be reconsidered was rejected be reconsidered and that said motion be placed on the table was rejected.

Representative Donnermeyer moved that the vote by which HB 470 was defeated be reconsidered.

On the roll call the vote was yeas 51—Bendl, Bennett, Blandford, Brinkley, Bronger, M. Brown, Bruce, Burch, L. Clark, P. Clark, Cowan, Cyrus, Deskins, Donnermeyer, Ellington, Freibert, Gedling, Gray, Guenthner, Hancock, J. Harper, Heleringer, Hines, Holbrook, Johnson, Kerr, Lear, LeMaster, Lile, Long, Mack, Mann, McElroy, McNutt, Meyer, Moberly, Nett, O'Brien, Pearman, Priddy, Pritchett, Rapier, Reinhardt, Richards, Riner, Siler, Stone, Strong, Stumbo, Williams, Yates. Nays 21—Barrows, Caldwell, Crupper, Curd, Farrow, Gregory, K. Harper, Jensen, T. Jones, Keith, Layman, McBee, Morris, Napier, Noe, Rattliff, B. Richardson, P. Richardson, Rose, Stewart, Worthington.

The motion that the vote by which HB 470 was defeated be reconsidered was adopted.

Representative Stumbo moved that HB 564 be recommitted to the Committee on Banking and Insurance. Agreed.

Representative Gregory moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Gregory moved the adoption of HR 88.

HR 88, A RESOLUTION naming Henry E. Pilkenton a poet laureate.

WHEREAS, Henry E. Pilkenton, retired teacher and principal, has been writing poetry for over forty years, and has published in newspapers, magazines, and on the back of two college bulletins; and

WHEREAS, Henry E. Pilkenton has been anthologized in *Kentucky Poets*, *The North American Book of Verse*, and *Important American Poets*; and

WHEREAS, Henry E. Pilkenton recently received the GOLDEN POETRY AWARD from Eddie Lou Cole, Poetry Editor of *World Poetry*;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House names Henry E. Pilkenton a poet laureate of Kentucky.

Section 2. That a copy of this resolution be sent to Henry E. Pilkenton.

HR 88 was adopted by voice vote.

Representative Reinhardt moved that a call of the roll be taken to show co-sponsors of Legislative Citation No. 38.

The following members requested that their names be added as co-sponsors of Legislative Citation No. 38: Allen, M. Brown, Bruce, Burch, Caldwell, P. Clark, Cline, Cowan, Cyrus, Freibert, Gregory, J. Harper, K. Harper, Heleringer, Holbrook, Johnson, T. Jones, Kerr, Layman, Lefevers, Noland, Pearman, Reinhardt, Riner, Siler, Smith, Stewart, Stone, Strong, White, Worthington.

Representative Reinhardt moved the adoption of Legislative Citation No. 38. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with profound compassion and sincere regrets the passing on December 14, 1985, the late, MR. WALTER R. DUNLEVY, husband of Mary Joyce Dunlevy. As President of the Chamber of Commerce in Northern Kentucky, his leadership was unsurpassed. He had been the Director of Community Development at the Chamber of Commerce, was the Administrative Executive to the Northern Kentucky Business Convention and Visitors Commission, as well as holding many offices on the local, state and national level. He was instrumental in reorganizing the Northern Court Authority and because of his education and training in private industry and commerce his influence was far-reaching and most rewarding to his community. He was active as a business volunteer and his high standard of professionalism were exemplary of his achievements and accomplishments for Northern Kentucky. This prestigious body mourns his passing and we extend our deepest sympathy to Mary Joyce, wife, your children, Maureen, Lisa, Walter, Brian, Timothy, and Joyce Marie, and to the entire family as we adjourn in his memory. (Sponsored by Representative Reinhardt)

Representative Heleringer moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 150. Agreed.

Representative Farrow moved that he be recorded as changing his vote from "Nay" to "Yea" on HB 150. Agreed.

Representative Ellington moved that he be recorded as voting "Yea" on HB 401. Agreed.

Representative Guenthner moved that he be recorded as voting "Yea" on HB 176 and HB 135. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brinkley, HB 53, HR 96, HB 150; Representative F. Brown, HB 19; Representative Bruce, HB 53, Representative Burnette, HR 96; Representative L. Clark, HB 53; Representative Dawahare, HB 339; Representative Donnermeyer, HB 245, HB 469; Representative Farrow, HB 150; Representative Gray, HB 245; Representative Head, HB 55; Representative Johnson, HR 96; Representative Keith, HCR 39; Representative Noland, HB 536; Representative Richards, HB 677; Representative Todd, HB 98, HB 150; Representative White, HB 245; Representative Worthington, HB 150, HB 245.

The following member filed a request to have his name withdrawn as a co-sponsor: Representative Scorsone, HB 570.

The following member filed a request to have his name added as a co-sponsor of a Citation: Representative Donnermeyer, Legislative Citation No. 38.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to SB 10, by Representative Mack:

Amend printed copy of SB 10:

On page 3, line 10, after "*statute.*" by deleting the following:

"*The governor shall appoint*";

On page 3, line 11, after "*member*" by inserting the following:

"*shall be elected*";

On page 3, line 12, after "*districts and*" by inserting the following:

"*the governor shall appoint*";

On page 3, line 13, after "terms on" by inserting the following:

"*the first Monday in January, 1988*";

On page 3, line 13, after “terms on” by deleting the following:

“*July 1, 1987*”;

On page 3, line 20, after “senate.” by inserting the following:

“*Those original board members elected from the first, second, third and fourth districts shall serve an initial term of six (6) years; those elected from the fifth, sixth, and seventh districts shall serve an initial term of five (5) years.*”

On page 3, line 20, after “original” by inserting the following:

“*six (6)*”;

On page 3, line 20, after “original” by deleting the following:

“thirteen (13)”;

On page 3, line 22, before “two (2) for five (5)” by inserting the following:

“*and three (3) for four (4) year terms*”;

On page 3, by deleting lines 22 and 23;

On page 3, line 24, by deleting the following:

“*(2) year terms, and two (2) for one (1) year terms*”;

On page 4, line 1, after “shall be” by inserting the following:

“*elected or*”;

On page 4, line 2, before “Board” by inserting:

“*The Board shall select a Chairman from the elected members*”;

On page 5, line 4, after “in the” by inserting the following:

“1988 regular”;

On page 5, line 4, after “in the” by deleting the following:

“1987 organizational”;

On page 5, line 5, after “2.” by inserting the following:

“The first nomination and election of the State Board of Education shall be in 1987. The nomination and election shall be non-partisan and shall be conducted in the same manner as the nomination and election of judges as provided in KRS Chapter 118A on the effective date of this amendment, with appropriate changes in the designation of the office and district”;

On page 5, by deleting lines 5 through 10;

On page 5, line 11, by inserting the following:

“3.”;

On page 5, line 11, by deleting the following:

“4.”

Floor Amendment No. 1 to HB 592, by Representative Rapier:

Amend printed copy of HB 592:

on page 3, line 5, by deleting the word "*shall*" and replacing it with the word "*may*"

Floor Amendment No. 1 to HB 511, by Representative Blevins:

Amend printed copy of HB 511:

on page 13, after line 7, by inserting the following:

"Section 3. Whereas, the need for local communities to know of the hazards presented by a hazardous waste site or facility which may locate in the community is a present need, an emergency is declared to exist, and this ACT shall become effective upon its passage and approval by the Governor."

Floor Title Amendment to HB 511, by Representative Blevins:

Amend printed copy of HB 511:

on the title page, on line "Title", by amending the title to read as follows: "AN ACT relating to hazardous waste and declaring an emergency."

Floor Amendment No. 1 to HB 516, by Representative Lear:

Amend printed copy of HB 516:

On page 1, line 9, before "*claim*" by inserting "*proof of loss*"; and

On page 1, line 9, after "*claim*" by inserting "*form, or in such shorter time as the commissioner shall direct by regulation*"; and

On page 2, line 1, by deleting "*the writing*" and inserting "*its response*" in lieu thereof; and

On page 2, line 5, before "*or*" by inserting a comma; and

On page 2, line 6 and 7, by deleting "*if the insurer failed to provide the notification required under Section 1 of this Act*" and inserting in lieu thereof "*has failed to respond as required under Section 1 of this Act*"

Floor Amendment No. 3 to HB 470, by Representative Priddy:

Amend printed copy of HB 470:

On page 1, line 3 through 8, to delete the same and to insert in lieu thereof:

"*(1) A policeman directly employed as a full time police officer by a Kentucky city, county, or urban county government and whose department meets the requirements of KRS 15.440 and who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.*

(2) The provisions of this section shall not:

(a) Authorize assistance in any labor dispute or strike;

(b) Authorize assistance by a constable or deputy constable; or

(c) Authorize assistance by a special local peace officer."

Announcements

The following meetings were announced:

Education: Subcommittee on budget recommendations, Room 109, Tuesday, February 25, 1986, 8:30 a.m.

Labor and Industry: Room 304, Tuesday, February 25, 1986, 8:30 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. Tuesday, February 25, 1986.

On the roll call the vote was yeas 85—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 2—Heleringer, Holbrook.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 25, 1986

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Clarence Howard, St. Joseph Cathedral, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 24, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 770, by Representative Priddy: AN ACT relating to firefighters.

HB 771, by Representative Lear: AN ACT relating to transportation of school children.

HB 772, by Representative LeMaster: AN ACT relating to theft by deception.

HB 773, by Representative Siler: AN ACT relating to occupational and career information and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 766.

Banking and Insurance: HB 753, HB 754, HB 755, HB 756, HB 760, HB 763, HB 769, SB 274, SB 275.

Business Organizations and Professions: HB 759.

Cities: HB 765.

Education: HB 764, SB 271.

Health and Welfare: SB 134, SB 257.

Judiciary-Civil: SB 240.

Judiciary-Criminal: HB 761.

Labor and Industry: HB 767.

Natural Resources and Environment: HB 757, HB 758, HB 768.

State Government: HB 762.

Report of Committees

The Committee on Rules reported HB 17, HB 211, HB 305, HB 344, HB 588, HB 29, HB 316, HJR 28, SB 2, SB 158, HB 436 and HB 665 have been posted in Orders of the Day, February 26, 1986.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: HB 416.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: HB 256, HB 517.

Counties and Special Districts: HB 657.

Health and Welfare: HB 747.

Senate Message

Announcing passage of SB 95, SB 96, SB 227, SB 243, SB 276, SB 277, HB 213 with Senate Amendment, HB 3, HB 228, HB 229, HB 235, HB 237, HB 239 and HB 268.

Report of Committees (Continued)

The Committee on Education reported HB 28, with Committee Amendment attached thereto, HB 552 and HB 662 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 28, AN ACT relating to the University of Kentucky Board of Trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, *one (1) member of the cooperative extension agents and specialists,* and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) *The member representing all cooperative extension agents and specialists (all county extension agents, area extension specialists and state specialists) shall not hold professorial rank or a tenure track position. He shall be elected by secret ballot by all cooperative extension agents and specialists who do not hold professorial rank or a tenure track position. The member representing the cooperative extension agents and specialists shall*

serve for a three (3) year term and until a successor is elected and qualified. No member representing the cooperative extension agents and specialists on the board of trustees shall succeed himself. The cooperative extension agents and specialists member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to serve as an extension agent or specialist in Kentucky. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original elections.

(5) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(6)[~~(5)~~] No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members *and the one (1) member representing the cooperative extension agents and specialists.*

(7)[~~(6)~~] The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed *five (5)* [~~four (4)~~].

The Committee Amendment to HB 28 is as follows:

Amend printed copy of HB 28:

On page 1, line 3 bracket and strike through "sixteen (16)" and insert "*fifteen (15)*" in lieu thereof

On page 1, line 16 bracket and strike through "sixteen (16)" and insert "*fifteen (15)*" in lieu thereof

On page 1, line 19 bracket and strike through "ten (10)" and insert "*nine (9)*" in lieu thereof

HB 552, AN ACT relating to the school term.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days. A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30.

(b) A pupil's required attendance in school shall be for at least the minimum term.

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. The

board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday;[,] two (2) days for the opening and closing of schools without the presence of pupils, *one (1) day of which may be used at the beginning of the second semester;* the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky, and

(b) Local disaster which would endanger the health or safety of children or mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction, and shall use one (1) day of excused absence for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(4) The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

HB 662, AN ACT relating to parent and child education and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The state board of education shall authorize grants to twelve (12) local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(2) Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(3) Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(4) Only those parents who have a three (3) or four (4) year old child and do not possess a high school diploma or high school equivalency certificate shall be eligible.

(5) Local education agencies shall be eligible for funds if the percentage of adults not graduating from high school exceeds sixty percent (60%) in the county. Selection for grant awards shall be based on the educational need of the adult population and the incidence of unemployment in the county.

(6) Each grant proposal shall include a plan for providing the following:

(a) Identification and recruitment of eligible participants;

(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

(c) Transportation, lunch and free general education development testing for program participants;

(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; and

(e) Certification of the eligibility and enrollment of a minimum of ten (10) parents with their children.

Section 2. To carry out the purposes of this Act, there is appropriated to the department of education out of the general fund in the state treasury the sum of $600,000 for fiscal year 1986-87 and $600,000 for fiscal year 1987-88.

The Committee Amendment No. 1 to HB 662 is as follows:

Amend printed copy of HB 662:

On page 1, line 20 after the word "*county*" insert "*or district*"

On page 2, line 3 after the word "*county*" insert "*or district*"

On page 2, line 22 delete the first "$600,000" and insert $300,000 in lieu thereof

On page 2, line 22 delete the second "$600,000" and insert "$900,000" in lieu thereof

The Committee on Banking and Insurance reported HB 585 with Committee Amendment attached thereto, HB 604 with Committee Amendment attached thereto, HB 631 with Committee Amendment attached thereto, HB 659 with Committee Substitute attached thereto, HB 692 with Committee Amendment attached thereto, HB 700, HB 709, SB 155 and SB 156 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 585, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mental illness" includes, but is not limited to, behavioral and psychological symptoms, and impairment of personal and social function. It shall be specifically defined through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), and any subsequent revision thereto, of the American Psychiatric Association.

(2) Any offer to sell a policy or contract of health insurance to be issued, delivered, issued for delivery, amended or renewed in this state after June 30, 1986, shall include an offer of coverage for the inpatient and outpatient treatment of mental illness, at least to the same extent and degree as coverage provided by the policy or contract for the treatment of physical illnesses.

(3) Nothing in this section shall be construed to prohibit an insurer from issuing or continuing to issue a health insurance policy or contract which provides benefits greater than the minimum benefits required by this section or from issuing such policies or contracts providing benefits which are generally more favorable to the insured than those required by this section.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mental illness" includes, but is not limited to, behavioral and psychological symptoms, and impairment of personal and social function. It shall be specifically defined through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), and any subsequent revision thereto, of the American Psychiatric Association.

(2) Any offer to sell a group policy or contract of health insurance to be issued, delivered, issued for delivery, amended or renewed in this state after June 30, 1986, shall include an offer of coverage for the inpatient and outpatient treatment of mental illness, at least to the same extent and degree as coverage provided by the policy or contract for the treatment of physical illnesses.

(3) Nothing in this section shall be construed to prohibit an insurer from issuing or continuing to issue a health insurance policy or contract which provides benefits greater than the minimum benefits required by this section or from issuing such policies or contracts providing benefits which are generally more favorable to the insured than those required by this section.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mental illness" includes, but is not limited to, behavioral and psychological symptoms, and impairment of personal and social function. It shall be specifically defined through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), and any subsequent revision thereto, of the American Psychiatric Association.

(2) Any offer to sell a policy or contract of health insurance to be issued, delivered, issued for delivery, amended or renewed by a nonprofit hospital, medical-surgical, or health service corporation after June 30, 1986, shall include an offer of coverage for the inpatient and outpatient treatment of mental illness, at least to the same extent and degree as coverage provided by the policy or contract for the treatment of physical illnesses.

(3) Nothing in this section shall be construed to prohibit an insurer from issuing or continuing to issue a health insurance policy or contract which provides benefits greater than the minimum benefits required by this section or from issuing such policies or contracts providing benefits which are generally more favorable to the insured than those required by this section.

SECTION 4. A NEW SECTION OF SUBTITLE 38 FOR KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mental illness" includes, but is not limited to, behavioral and psychological symptoms, and impairment of personal and social function. It shall be specifically defined through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), and any subsequent revision thereto, of the American Psychiatric Association.

(2) Any offer to sell a policy of health insurance or health maintenance organization coverage issued, delivered, issued for delivery, amended or renewed by a health maintenance organization in this state after June 30, 1986, shall include an offer of coverage for the inpatient and outpatient treatment of mental illness, at least to the same extent and degree as coverage provided by the policy or contract for the treatment of physical illnesses.

(3) Nothing in this section shall be construed to prohibit a health maintenance organization from issuing or continuing to issue a health insurance policy or contract which provides benefits greater than the minimum benefits required by this section or from issuing such policies or contracts providing benefits which are generally more favorable to the insured than those required by this section.

The Committee Amendment No. 1 to HB 585 is as follows:

Amend printed copy of HB 585:

On page 1, lines 4 through 10, and on page 2, lines 7 through 13, and on page 3, lines 5 through 11, and on page 4, lines 5 through 11, by deleting those lines in their entirety and inserting in lieu thereof "*means psychosis, neurosis or an emotional disorder.*"

On page 1, line 11 before "*health*" by inserting "*general*"

On page 2, line 14 after "*contract of*" by inserting "*general*"

On page 3, line 12 after "*of*" by inserting "*general*"

On page 4, line 12 after "*of*" by inserting "*general.*"

HB 604, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.35-010 is amended to read as follows:

(1) As used in this subtitle:

(a) "Casualty insurance" means only those coverages which are included in homeowners and farmowners insurance policies, as commonly understood in the insurance industry; and

(b) "Property insurance" has the meaning set forth in KRS 304.5-050.

(2) All insurers licensed to write and writing property *and casualty* insurance in this Commonwealth on a direct basis shall, subject to approval and regulation by the commissioner of insurance, establish and maintain a "FAIR" (Fair access to insurance requirements) plan and establish and maintain a reinsurance association and formulate and from time to time amend the plan and articles of association and rules and regulations in connection therewith, and assess and share on a fair and equitable basis all expenses, income, and losses incident to such "FAIR" plan and reinsurance association in a manner consistent with the provisions of this subtitle.

Section 2. KRS 304.35-020 is amended to read as follows:

Each insurer authorized to write and writing property *and casualty* insurance on a direct basis in this Commonwealth shall be required to become and remain a member of the plan and the reinsurance association, and comply with the requirements thereof as a condition of its authority to transact property insurance business *in Kentucky.*

Section 3. KRS 304.35-030 is amended to read as follows:

(1) The "FAIR" plan and articles of association shall make provision for a reinsurance association having authority on behalf of its members to cause to be issued property *and casualty* insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan and articles of association shall provide, among other things, for the perils to be covered, geographical area of coverage, compensation and commissions, assessments of members, participation in the writings, expenses, income and losses in the proportion each member's property *and casualty* premiums written bear to the aggregate property *and casualty* premiums written by all members, the administration of the plan and association, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

(2) The Reinsurance Association shall administer the mine subsidence insurance fund if directed to do so by the commissioner.

Section 4. KRS 304.35-060 is amended to read as follows:

(1) There shall be no liability on the part of, and no cause of action of any nature shall arise against *any* member *insurer* [~~insurers~~], *servicing insurer, insurance agent, inspector or* [~~any~~] inspection bureau, *adjuster or adjusting firm or corporation,* placement facility, or reinsurance association, or the governing committee, *or the* agents or employes *of any of them,* or the Commissioner of Insurance or his authorized representatives, *or the department, department employes, department examiners, or their authorized representatives,* for any inspections undertaken or statements made by any of them concerning the *risk* [~~property~~] to be insured, or any person having a legal interest therein, and any reports and communications in connection therewith shall not be considered public documents.

(2) All rights and obligations accruing under Chapter 65 of the 1972 Acts *or Chapter 359 of the 1980 Acts* are hereby preserved. The plan and association created pursuant to KRS 304.35-010 to 304.35-050 shall become the successors to the plan and association created pursuant to Chapter 65 of the 1972 Acts *or Chapter 359 of the 1980 Acts,* and shall assume all assets and liabilities thereof existing on *the effective date of this Act* [~~July 15, 1980~~], and shall hold all such surplus assets, after the payment of all such liabilities, as a security fund for the payment of loss to insured *risks* [~~property~~] or expense of operating said plan and association until either said security fund is exhausted or the plan and association of any lawful successor thereto is dissolved.

Section 5. KRS 304.35-105 is amended to read as follows:

The commissioner shall request, receive and transmit the names and addresses of all commercial *real property policy* [~~policyholders of and~~] applicants to the "FAIR" plan to the state fire marshal.

The Committee Amendment No. 1 to HB 604 is as follows:

Amend printed copy of HB 604:

On page 1, by deleting lines 4 through 7 in their entirety and inserting in lieu thereof "*(a) Casualty insurance" means only those coverages for bodily injury or property damage legal liability which are combined* *with property insurance in a homeowner or farm owner insurance policy form approved by the commissioner; and*"

HB 631, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.100 is amended to read as follows:

(1) Each fiscal year the state treasurer shall deduct from any funds in his hands payable to an agency for the care and maintenance of public buildings or property, an amount equal to the premiums certified to him as chargeable against that agency. The amount so debited shall be credited to an account kept by the state treasurer and known as the state fire and tornado insurance fund. No premium shall be charged on any one (1) subject of risk upon a valuation of more than five hundred thousand dollars ($500,000) unless the department of insurance has contracted for reinsurance that limits the liability of the fund to five hundred thousand dollars ($500,000) upon such subject of risk.

(2) The department shall prescribe a certificate setting forth the terms and conditions of coverage under the state fire and tornado insurance fund. Different forms of certificates may be used for different risks. Such certificates may contain such terms and conditions as the department may prescribe, including, but not limited to, a deductible in order that there be fair allocation of significant losses and the elimination of unnecessary costs in administering the state fire and tornado insurance fund.

Section 2. KRS 189.950 is amended to read as follows:

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency in the performance of his official duties as a member of a fire department or rescue squad.

(5) Any constable may, upon approval of the fiscal court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws. *Any constable authorized by the fiscal court to utilize blue lights and a siren pursuant to this section shall maintain at least the insurance described by KRS 304.39-110.*

Section 3. KRS 304.2-120 is amended to read as follows:

(1) Orders and notices of the commissioner shall be effective only when in writing signed by him or by his authority.

(2) Every order of the commissioner shall state its effective date, and shall concisely state:

(a) Its intent or purpose.

(b) The grounds on which based.

(c) The provisions of this code pursuant to which action is so taken or proposed to be taken, and

(d) All other matters required by law.

(3) *All persons holding licenses or certificates of authority from the commissioner shall maintain current residence, business, home office, and administrative addresses, as applicable, on file with the commissioner. Such persons shall notify the commissioner in writing immediately upon any change in such addresses. As a condition to holding a license or certificate of authority from the commissioner, persons holding such licenses or certificate of authority are deemed to have consented to service of notices and orders of the commissioner at their addresses on file with the commissioner and any notice or order of the commissioner mailed or delivered to the address on file with the commissioner constitutes valid service of such notice or order* [~~Except as may be provided as to particular procedures, an order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to him at his principal place of business or residence as last of record in the department~~].

Section 4. KRS 304.2-150 is amended to read as follows:

(1) The commissioner shall carefully preserve in the department and in permanent form, a correct account of all his transactions and of all fees and moneys received by him by virtue of his office, together with all financial statements, examination reports, correspondence, filings, and documents duly received by the department. The commissioner shall hand the same over to his successor in office.

(2) The commissioner shall keep a suitable record of all insurer certificates of authority and of all licenses issued under this code, together with all applicable suspensions and revocations and of the causes thereof.

(3) *Unless otherwise provided by law, records of the department shall be open to the extent provided by the Kentucky open records act, KRS 61.872 to 61.884.*

(a) The following records shall be open:

1. Rate and form filings and information filed in support thereof; and

2. Other records as provided by law.

(b) The following records shall be closed:

1. All records of investigation in connection with actual or claimed violations of any statute or regulation enforced by the commissioner or prosecution or disciplinary action therefor, without regard to whether the investigation is designated as open or closed. However, records described in this paragraph may be used by the commissioner in such prosecution or disciplinary action, and may be disclosed to other law enforcement authorities;

2. All information received in confidence from the national association of insurance commissioners, including, but not limited to, information from the insurance regulatory information system. However, records described in this paragraph may be used by the commissioner in enforcement prosecutions and proceedings for disciplinary action, and may be disclosed to other law enforcement authorities; and

3. Other records as provided by law.

(c) When inspection of department records is denied, any person challenging the denial shall follow the procedures set forth in the Kentucky open records act, KRS 61.872 to 61.884 [~~All records of the department shall be open to public inspection except as otherwise expressly provided by law as to particular matters; and except that records, correspondence, and reports of investigation in connection with actual or claimed violations of this code or prosecution or disciplinary action therefor shall be confidential. The confidential nature of any such record, correspondence or report shall not, however, limit or affect use of the same by the commissioner in any such prosecution or action~~].

(4) [~~All records and documents of the department are subject to subpoena by a court of competent jurisdiction.~~

~~(5)~~] After five (5) years, the commissioner may destroy unneeded or obsolete records and filings in the department.

Section 5. KRS 304.2-165 is amended to read as follows:

(1) The commissioner shall review all written complaints that a health insurer doing business in Kentucky has denied a claim of an insured.

(2) The commissioner shall send a copy of the complaint to the insurer and request a written reply be sent to the commissioner within ten (10) days.

(3) Upon review of a complaint the commissioner shall make a recommendation to the insurer and the insured.

(4) This section shall not limit the power of the commissioner to exercise any other authority under this code or to a health insurance claim dispute.

Section 6. KRS 304.2-320 is amended to read as follows:

(1) Except where a longer period is expressly provided in this code, the commissioner shall give written notice of the hearing not less than ten (10) days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the commissioner shall give such notice to all persons whose pecuniary interest, to the commissioner's knowledge or belief, are to be directly and immediately affected by the hearing.

(2) If any such hearing is to be held for consideration of [~~rules and regulations of the commissioner, or of other~~] matters which, under subsection (1) of this section, would otherwise require separate notice to more than thirty (30) persons, in lieu of other notice the commissioner may give notice of the hearing by publication pursuant to KRS chapter 424; but the commissioner shall mail such notice to all persons who had requested the same in writing in advance and have paid to the commissioner the reasonable amount fixed by him to cover the cost thereof.

(3) All such notices, other than published notices, shall be given as provided in KRS 304.2-120.

Section 7. KRS 304.2-360 is amended to read as follows:

(1) In the conduct of hearings under this code and making his order thereon, the commissioner shall act in a quasi-judicial capacity.

(2) Except as otherwise provided in this subsection, within thirty (30) days after termination of a hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this code as to particular proceedings, the commissioner shall make his order covering matters involved in such hearing, and give a copy of the order to each party to the hearing in the same manner as notice of the hearing was given to such party. With respect to hearings held concerning merger, consolidation, bulk reinsurance, conversion, affiliation or change of control of a domestic insurer as provided in subtitle 24, or in subtitle 27, where notice of the hearing was given to all stockholders and policyholders or to all stockholders of an insurer involved, the commissioner is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of such stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(3) The order shall contain:

(a) A concise statement of facts found by the commissioner upon evidence adduced at the hearing;

(b) A concise statement of the commissioner's conclusions of law from the facts so found;

(c) His order, and the effective date thereof; and

(d) Citation of the provisions of this code upon which the order is based.

(4) The order may affirm, modify or rescind action theretofore taken or may constitute taking of new action within the scope of the notice of the hearing. *The order may require that restitution be made to any person aggrieved by a violation of any provisions of this chapter, any statute administered by the commissioner, or any regulation of the commissioner.*

(5) An order prepared by the commissioner's designee and approved in writing by the commissioner shall be considered the commissioner's order.

Section 8. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

(1) Annual statement:	
(a) Filing each year	$100.00
(b) Filing additional or supplemental statement in same year	100.00
(2) For filing charter documents:	
(a) Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed	100.00
(b) Amended charter documents, bylaws and records of organization, or certified copies thereof	50.00
(3) Certificate of authority:	
(a) Issuance of original certificate	500.00
(b) Amending, to add a line	50.00
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers: Filing application for solicitation permit and issuance of such permit	200.00
(5) Self insurer:	
(a) Application to become self-insurer under Subtitle 39	200.00
(b) Annual review of status under Subtitle 39	100.00
(c) Notification of self-insurance program under Subtitle 32	50.00
(6) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, biennial	40.00
(b) License for industrial life insurer, only, biennial	40.00
(c) License for other insurance, each insurer represented, biennial	40.00
(d) Limited license as travel insurance agent, biennial	40.00
(e) Temporary license as property and casualty agent	20.00
(f) Temporary license as life and health agent	20.00
(g) Nonresident agent, biennial	50.00

(7) Surplus lines broker, biennial	100.00
(8) Solicitor's license, biennial	*40.00* [~~20.00~~]
(9) Adjuster's license, biennial	50.00
(a) Temporary license as apprentice adjuster	25.00
(10) Consultant's license, biennial	50.00
(11) Agent's licenses, fraternal benefit societies, Subtitle 32 corporations, health maintenance organizations, prepaid dental plan organizations, biennial	40.00
(12) Examination, for or in connection with licensing of agents, solicitors, adjusters, and consultants	50.00
(13) Annual registration fee of unauthorized insurer	500.00
(14) Advisory organizations:	
(a) Application for license	500.00
(b) Annual renewal	100.00
(15) Rate and form filings:	
(a) Rate level revision filing in a non-competitive market	100.00
(b) Other rate and form filings	5.00
(16) Premium finance company license issuance and annual renewal	100.00
(17) Cost of administering Subtitle 32 per membership contract in force on December 31st of each year, except the health insurance contract or contracts for state employes as authorized by KRS 18A.225	.10
(18) Miscellaneous services:	
(a) Filing other documents, each	5.00
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	5.00
(c) For copies of any document on file with the commissioner, per page	.50
(d) Copy of annual statements, per page	1.00

Section 9. KRS 304.5-140 is amended to read as follows:

(1) An insurer may accept reinsurance only of such kinds or risks, and retain risk thereon within such limits, as it is otherwise authorized.

(2) *Credit for reinsurance shall be allowed an authorized ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:*

(a) The reinsurance is ceded to an assuming insurer which is authorized to transact insurance or reinsurance or otherwise accredited as a reinsurer in this state or authorized in at least one (1) state which employs standards regarding credit for reinsurance substantially similar to those applicable under this subsection and which insurer conforms to the same standards of solvency which would be required of such insurer if it were licensed in this state; or

(b) The reinsurance is ceded to a residual market mechanism reinsurance association (or the members

thereof) created pursuant to law or which has been voluntarily created as such by its members with the approval of the commissioner; or

(c) The reinsurance is ceded to an assuming insurer which maintains a trust fund in a United States bank or trust company for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner or his designee information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by authorized insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than twenty million dollars ($20,000,000). In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than one hundred million dollars ($100,000,000), and the group shall make available to the commissioner or his designee the annual certification by the group's domiciliary regulator and its independent public accounts of the solvency of each underwriter.

1. Such trust shall be established in a United States bank or trust company which is a member of the federal reserve system in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

2. No later than February 28th of each year, the trustees of the trust shall report to the commissioner or his designee in writing setting forth the balance of the trust and listing the trusts investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31st; or

(d) The reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a) or (c) of this subsection, but only with respect to the insurance of risks located in jurisdictions other than the United States, where such reinsurance is required by applicable law or regulation of that jurisdiction; or

(e) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state, the credit permitted by paragraphs (a) and (c) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(2) To designate the secretary of state or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement [~~An insurer may reinsure all or part of any particular risk with any solvent insurer authorized to transact insurance in one or more states and having surplus to policyholders in amount not less than the paid-in capital stock required of an authorized foreign stock insurer transacting like kinds of insurance; or, in the case of a group of individual, unincorporated alien insurers, has assets held in trust for the benefit of its United States policyholders in a sum not less than $50,000,000, and is authorized to transact insurance in at least one (1) state~~].

(f) Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.

(3) *A reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of subsection (2) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including*

funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of the obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a United States bank or trust company that is a member of the federal reserve system. This security must be in the form of:

(a) Cash;

(b) Securities listed by the security valuation office of the national association of insurance commissioners and qualifying as admitted assets;

(c) Clean, irrevocable, and unconditional letters of credit, issued or confirmed by a bank or trust company that is a member of the federal reserve system; or

(d) Any other form of security acceptable to the commissioner [~~No credit shall be allowed to an insurer, as an asset or as a deduction from liability, for reinsurance ceded to an alien insurer unless such alien insurer has surplus to policyholders in amount not less than the paid-in capital stock required of an authorized foreign stock insurer transacting like kinds of insurance and is authorized to transact insurance in at least one (1) state of the United States; or, in the case of a group of individual, unincorporated alien insurers, has assets held in trust for the benefit of its United States policyholders in a sum not less than $50,000,000, and is authorized to transact insurance in at least one (1) state~~].

(4) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under subsections (2) or (3) of this section, except that no such credit shall be allowed unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts re-insured without diminution because of the insolvency of the ceding insurer.

(5) Upon request of the commissioner an insurer shall promptly inform the commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

Section 10. KRS 304.7-240 is amended to read as follows:

The amounts allocated to each separate account established by the insurer in connection with a pension, retirement or profit-sharing plan, *life insurance* or *an* annuity pursuant to KRS 304.15-390 together with accumulations thereon, may be invested and reinvested in any class of investments which may be authorized in the written contract or agreement without regard to any requirements or limitations prescribed by this subtitle; except, that to the extent that the insurer's reserve liability with regards to (1) benefits guaranteed as to amount and duration, and (2) funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the applicable provisions of this subtitle. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to other investments of the insurer.

Section 11. KRS 304.9-030 is amended to read as follows:

(1) A "general lines" agent is an agent who transacts any one or more of the following kinds of insurance:

(a) Property insurance.

(b) Casualty insurance.

(c) Surety insurance.

(d) Marine and transportation insurance.

(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance.

(f) Mortgage guaranty insurance.

(2) A "life" agent is an agent who transacts life insurance or annuity business. *An agent may be appointed for life insurance only, if the insurer is a life and health insurer.*

(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.

(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.

Section 12. KRS 304.9-105 is amended to read as follows:

For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless such person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle:

(1) That the person has attained the age of eighteen years or more.

(2) That the person has fulfilled the residence requirements as set forth in KRS 304.9-120.

(3) That the person is trustworthy, reliable and of good reputation, evidence of which may be submitted on behalf of the person in the form of:

(a) A certificate by the insurer or agent by which or whom the person is to be appointed or employed, subject to the issuance of the license, stating that such insurer or agent has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability and good reputation of the person together with a brief synopsis of the findings resulting therefrom, or

(b) Three letters of recommendation attesting to the trustworthiness, reliability and good reputation of the person written on his behalf by persons not related to him by blood or marriage and one of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(4) That the person is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state; and

(b) Successfully completed such specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for such license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for such purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision such instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when such programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if such programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner; and

(c) Successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170.

(d) The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978.

(5) That the person is financially responsible to exercise the license and has:

(a) Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that such insurer has and will keep in effect on behalf of such person a policy of insurance covering the legal liability of such licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single such occurrence in the sum of not less than $10,000.00 and $50,000.00 in the aggregate for all such occurrences within one year, and that such policy shall not be terminated unless at least 30 days prior written notice will have been given to the commissioner; or

(b) Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write such business in this Commonwealth, in the sum of $10,000.00 which shall be subject to lawful levy of execution by any party to whom the licensed person has been found to be legally liable as the result of erroneous acts or failure to act in his capacity as an insurance agent; or

(c) Had filed with the commissioner on his behalf, by an authorized insurer or group of affiliated insurers for which he is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of such licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent on behalf of such insurer or group of affiliated insurers in the sum of $10,000.00 for any such single occurrence and that such agreement shall not be terminated until the license is surrendered to the commissioner or at least 30 days prior written notice will have been given to the commissioner, whichever shall first occur; and

(d) Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed pursuant to (a) hereof, or agreement filed pursuant to (c) hereof, is to be terminated and has not been replaced by another such policy or agreement within *the time established by regulations of the commissioner* [~~ten (10) days of the date on which such notice of intent to terminate was given to the commissioner~~], or if any deposit pursuant to subsection (b) hereof be reduced through levy of execution and not replaced by any necessary additional deposit within *the time established by regulations of the commissioner* [~~ten (10) days thereafter~~], any and all licenses held by such person are suspended and shall be promptly surrendered to the commissioner without demand.

(6) That the person, to whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.

(8) Subsections (4)(b) and (5) of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.

(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C.A., Section 2002 (Pub. Law 92-181, Sec. 1.2, Dec. 10, 1971, 85 State. 583) or any subsidiary or affiliate thereof doing business in this State, nor any officer or employe of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except Credit Life, Accident and Health, and crop hail insurance in an amount appropriate to insure repayment of the loan.

Section 13. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor, *including, but not limited to, financial responsibility pursuant to KRS 304.9-105(5),* under this code limited agent's licenses as follows:

(a) Covering motor vehicle insurance only.

(b) To persons representing common carriers, as provided in KRS 304.9-170.

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(d) Covering only credit life and credit health insurance.

(e) Covering agents writing mortgage guaranty insurance only.

(f) Covering agents (1) writing industrial life insurance only or (2) licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if such agent actually collects and services a debit for such insurer.

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith.

(h) Covering agents writing crop-hail insurance only.

(i) Covering agents writing mechanical breakdown insurance only.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 14. KRS 304.9-390 is amended to read as follows:

(1) Every agent referred to in subsection (1) of KRS 304.9-120 shall have and maintain in this state a place of business accessible to the public, and wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license[~~, and the licensee shall promptly notify the commissioner in writing of any change thereof~~]. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this state.

(2) The licenses of the licensee, and those of solicitors employed by him, shall be conspicuously displayed in such place of business in a part thereof customarily open to the public.

(3) The agent shall keep at his place of business complete records of transactions under his license and those of his solicitors. Such record shall show, as to each insurance policy or contract placed or countersigned by or through the licensee, the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, and such other information as the commissioner may reasonably require. The record shall be kept available for inspection by the commissioner, for a period of at least five (5) years after completion of the respective transactions.

(4) This section shall not apply as to life and health insurance.

Section 15. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he knows, or in the exercise of reasonable diligence could know has a surplus in regard to policyholder of less than three million dollars ($3,000,000), is unsound financially, or that is ineligible under the Kentucky insurance code.

(2) A broker may*:*

(a) Place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars ($15,000,000)*; and*

(b) Place insurance with a United States insurance exchange which the commissioner, in his discretion, may designate for use by surplus lines brokers licensed by the Commonwealth of Kentucky.

(3) A broker shall not place insurance with an alien insurer that is not recognized by the national association of insurance commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least one million five hundred thousand dollars ($1,500,000).

(4) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless such insurer has deposited with the custodian of insurance securities publicly-traded securities with a market value of at least three hundred thousand dollars ($300,000).

(5) This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke such eligibility, or may order such insurer to comply with this section or may suspend the operation of the insurer in Kentucky.

SECTION 16. A NEW SECTION OF KRS 304.11-040 TO 304.11-050 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to give Kentucky jurisdiction over providers of health care benefits; to indicate how each provider of health care benefits may show under what jurisdiction it falls; to allow for examination by Kentucky if the provider of health care benefits is unable to show it is subject to another jurisdiction; to make such a provider of health care benefits subject to the laws of Kentucky if it cannot show that it is subject to another jurisdiction; and to disclose to purchasers of such health care benefits whether or not the plans are fully insured.

(2) Notwithstanding any other provisions of laws, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the department, unless the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this state, any subdivision thereof, or the federal government.

(3) If a person or entity wishes to show that it is subject to the jurisdiction of another agency of this state, any subdivision thereof, or the federal government, such showing shall be made by providing to the commissioner the appropriate certificate, license, or other document issued by other governmental agency which permits or qualifies it to provide those services.

(4) Any person or entity which is unable to show under subsection (3) that it is subject to the jurisdiction of another agency of this state, any subdivision thereof, or the federal government, shall submit to an examination by the commissioner to determine the organization and solvency of the person or the entity, and to determine whether or not such person or entity complies with the applicable provisions of this chapter.

(5) Any person or entity unable to show that it is subject to the jurisdiction of another agency of this state, any subdivision thereof, or the federal government, shall be subject to all appropriate provisions of this code regarding the conduct of its business.

(6) Any production agency or administrator which advertises, sells, transacts, or administers the coverage in this state described in subsection (2) of this section and which is required to submit to an examination by the commissioner under subsection (4) of this section shall, if said coverage is not fully insured or otherwise fully covered by an authorized life or health insurer, nonprofit hospital, medical-surgical, dental, and health service corporation, health maintenance organization, or prepaid dental plan organization, advise every purchaser, prospective purchaser, and covered person of such lack of insurance or other coverage. Any administrator which advertises or administers the coverage in this state described in subsection (2) of this section which is required to submit to an examination by the commissioner under subsection (4) of this section shall advise any production agency of the elements of the coverage, including the amount of "stop loss" insurance in effect.

Section 17. KRS 304.12-030 is amended to read as follows:

(1) As used in this section:

(a) "Replacement" means any transaction in which new life insurance is to be purchased and by reason of such transaction existing life insurance has been or is to be:

1. Lapsed, forfeited, surrendered, or otherwise terminated; or

2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values; or

3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid; or

4. Reissued with any reduction in cash value; or

5. Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent (25%) of the loan value set forth in the policy.

(b) "Existing insurer" means the insurance company whose existing life insurance policy is or will be terminated or otherwise affected in a replacement transaction.

(c) "Replacing insurer" means the insurance company that issues new life insurance in a replacement transaction.

(d) "Existing life insurance" means any life insurance in force including life insurance under a binding or conditional receipt or a life insurance policy that is within an unconditional refund period, but excluding life insurance obtained through the exercise of a dividend option.

(2) Any person who solicits an application for new life insurance on the life of another and who knows, or with the exercise of reasonable inquiry should know, that such insurance will be purchased or otherwise acquired in a replacement transaction shall not issue new life insurance to the applicant until thirty (30) days after notice of such proposed replacement together with a copy of all soliciting material shown or delivered to the proposed insured has been delivered by the replacing insurer to the existing insurer.

(3) No replacing insurer shall issue any life insurance in a replacement transaction to replace existing life insurance unless the replacing insurer shall agree in writing with the insured that:

(a) The new life insurance issued by the replacing insurer will not be contestable by it in the event of such insured's death to any greater extent than the existing life insurance would have been contestable by the existing insurer had such replacement not taken place provided, however, that this subsection 3(a) shall not apply to that amount of insurance written and issued which exceeds the amount of the existing life insurance; and

(b) The new life insurance issued by the replacing insurer may be voluntarily surrendered by the insured at any time within thirty (30) days after its delivery to the insured in exchange for a full refund of premiums paid by the replacing insurer to the insured.

(4) Unless otherwise specifically included, subsections (2) and (3) of this section shall not apply to:

(a) Annuities;

(b) Individual credit life insurance;

(c) Group life insurance, group credit life insurance, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, provided, however, that as to any plan described in this subsection, full and complete disclosure of all material facts shall be given to the administrator of any plan to be replaced;

(d) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account;

(e) An application to the existing insurer that issued the existing life insurance and a contractual policy change or conversion privilege or a privilege of policy change granted by the insurer is being exercised;

(f) Existing life insurance that is a non-convertible term life insurance policy which will expire in five years or less and cannot be renewed; or

(g) Proposed life insurance that is to replace [~~existing~~] life insurance *under a binding or conditional receipt* issued by the same company.

(5) *As to proposed life insurance that is to replace existing life insurance issued by the same insurer or an insurer in the same group of affiliated insurers:*

(a) Subsection (2) of this section shall not apply to such insurance; and

(b) Subsection (3) of this section shall apply to such insurance.

(6) No person shall make or issue, or cause to be made or issued, any written or oral statement of a material fact which is untrue or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading with respect to comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise affect or dispose of any insurance policy.

SECTION 18. A NEW SECTION OF KRS 304.12080 TO 304.12-085 IS CREATED TO READ AS FOLLOWS:

(1) Unfair discrimination against individuals on the basis of blindness or partial blindness is prohibited.

(2) For the purposes of this section, unfair discrimination against individuals on the basis of blindness or partial blindness consists of refusing to insure, refusing to continue to insure, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

(3) This section shall apply to insurance and annuity contracts delivered, issued for delivery, or renewed in this state after the effective date of this Act.

Section 19. KRS 304.13-051 is amended to read as follows:

(1) In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for commercial risks as designated by the commissioner and for all personal risks. Such rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On such a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. Such an order shall expire no later than one (1) year after it is issued.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Such manuals, rules and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(6) The commissioner shall review filings made in accordance with subsections (2) and (5) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commission for an additional period not to exceed thirty (30) days if he gives written notice within such waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before said filing becomes effective to determine whether the filing meets the requirements of this subtitle. *In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of such hearing.* The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes such filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

Section 20. KRS 304.15-390 is amended to read as follows:

(1) A domestic life insurer may establish one or more separate accounts, and may allocate thereto, in accordance with the terms of a written contract or agreement, any amounts paid to the insurer in connection with a pension, retirement or profit sharing plan, *life insurance*, or an annuity which are to be applied to provide benefits payable in fixed or in variable dollar amounts or in both.

(2) The income, if any, and gains and losses, realized or unrealized, on each such account shall be credited to or charged against the amounts allocated to the account in accordance with the agreement, without regard to other income, gains or losses of the insurer.

(3) Assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the applicable contract or agreement; except, that the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in subsection (1) of this section, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

(4) If the agreement provides for payment of benefits in variable amounts, the contract shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract and any certificate issued thereunder shall state that such dollar amount may decrease or increase and shall contain on its first page a statement that the benefits thereunder are on a variable basis.

(5) No domestic life insurer, and no other authorized life insurer, shall be authorized to deliver within this state any such contract or agreement providing benefits in variable amounts until the insurer has satisfied the commissioner that its condition or methods of operation in connection with the issuance of such contracts or agreements will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting such authority, the commissioner shall consider, among other things:

(a) The history and financial condition of the insurer;

(b) The character, responsibility and general fitness of the officers and directors of the insurer; and

(c) In the case of an insurer other than a domestic insurer, whether the statutes or regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.

(6) Amounts allocated by domestic life insurers to separate accounts in the exercise of the power granted by this section shall be owned by the insurer and the insurer shall not be, or hold itself to be, a trustee, in respect to such amounts.

(7) The commissioner shall have sole authority to regulate the issuance and sale of such agreements, and to make rules and regulations for the effectuation of this section.

Section 21. KRS 304.29-360 is amended to read as follows:

(1) The commissioner may issue a license to any person who has paid a license fee and who has complied with the requirements of this subtitle authorizing such licensee to act as an insurance agent on behalf of any society named in such license, which society is authorized to do business in this state.

(2) Before any insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

(a) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe.

(b) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

(3) *Successful completion of a* [~~No~~] written [~~or other~~] examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent. *The written examination shall be administered by the commissioner in the same manner as the written examinations for agents of authorized insurers.*

Section 22. KRS 304.32-250 is amended to read as follows:

The commissioner may[~~, after notice and hearing,~~] promulgate reasonable rules and regulations not inconsistent with the provisions of this subtitle that he deems necessary for the proper administration of this subtitle.

Section 23. KRS 304.33-250 is amended to read as follows:

(1) *(a)* Notice required. [~~(a)~~] General requirements. The liquidator shall give notice of the liquidation order as soon as possible by first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is licensed to do business, by first-class mail and by telephone to the department of labor of this state if the insurer is or has been an insurer of workmen's compensation, by first-class mail within this state and by airmail outside this state to all insurance agents having a duty under KRS 304.33-260, and by first-class mail within this state and by airmail outside this state at the last known address to all persons known or reasonably expected to have claims against the insurer, including all policyholders. He also shall publish a notice, under KRS chapter 424, in a newspaper of general circulation in the county in which the liquidation is pending and in Franklin County, the last publication to be not less than three (3) months before the earliest deadline specified in the notice under subsection (2) of this section.

(b) Special requirements. Notice to agents shall inform them of their duties under KRS 304.33-260 and inform them what information they must communicate to insureds. Notice to policyholders shall include notice of impairment and termination of coverage under KRS 304.33-210. When it is applicable, notice to policyholders shall include

1. Notice of withdrawal of the insurer from the defense of any case in which the insured is interested.

2. Notice of the right to file a claim under subsection (2) of KRS 304.33-390.

(c) Reports and further notice. Within fifteen (15) days of the date of entry of the order, the liquidator shall report to the court what notice has been given. The court may order such additional notice as it deems appropriate.

(2) Notice respecting claims filing. Notice to potential claimants under subsection (1) of this section shall require claimants to file with the court their claims together with proper proofs thereof under KRS 304.33-370, on or before a date the liquidator specifies in the notice, which shall be not less than six (6) months nor more than *a reasonable time specified in the court's* [~~one (1) year after entry of the~~] order, except that the liquidator need not require persons claiming unearned premium and persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. The liquidator may specify different dates for the filing of different kinds of claims.

(3) Notice conclusive. If notice is given in accordance with this section, the distribution of the assets of the insurer under this subtitle shall be conclusive with respect to all claimants, whether or not they received notice.

Section 24. KRS 304.46-080 is amended to read as follows:

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty (30) days of the determination, but such obligation shall include only that amount of each covered claim which is less than *one hundred thousand dollars ($100,000)* [~~fifty thousand dollars ($50,000)~~]. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises;

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under KRS 304.36-130 and other expenses authorized by this subtitle. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year an amount greater than *two* [~~one~~] percent *(2%)* of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital and surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims;

(e) Notify such persons as the commissioner directs under KRS 304.36-100 (2) (a);

(f) Handle claims through its employes or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer; and

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this subtitle.

(2) The association may:

(a) Appear in, defend, and appeal any action on a claim brought against the association;

(b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation;

(d) Sue or be sued;

(e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this subtitle;

(f) Perform such other acts as are necessary or proper to effectuate the purpose of this subtitle; and

(g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

SECTION 25. A NEW SECTION OF KRS CHAPTER 304.38-030 TO 304.38-040 IS CREATED TO READ AS FOLLOWS:

No person shall in this state be, act as, or hold himself out as a health maintenance organization unless he holds a certificate of authority from the commissioner.

Section 26. KRS 304.38-040 is amended to read as follows:

(1) *A corporation or partnership* [~~Any person~~] may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this subtitle.

(2) Health maintenance organizations *which are corporations* may be organized by applying the provisions of KRS Chapter 271A, if for profit, and KRS Chapter 273, if for non-stock, non-profit, to the extent that the same are not inconsistent with the express provisions of this Subtitle.

(3) Each application for a certificate of authority shall be submitted to the commissioner upon a form prescribed by him and shall set forth or be accompanied by:

(a) Evidence that the applicant has been issued a certificate of need in accordance with the provisions of KRS Chapter 216B.

(b) *Articles of incorporation or partnership agreement* [~~The basic organizational documents~~] in triplicate originals acknowledged and verified by the applicant, such as the articles of incorporation, articles of association, partnership agreement, or other applicable documents;

(c) The initial bylaws of the organization in triplicate (or any other similar documents);

(d) A statement which shall include describing the health maintenance organization, (i) the proposed method of marketing; (ii) the initial geographic area to be served; (iii) a financial program setting forth a 3-year projection of such operation; and (iv) the sources of working capital and funding;

(e) The names, addresses, and positions of the initial board of directors, board of trustees, or other governing body responsible for the conduct of the affairs of the applicant;

(f) Any proposed contracts or agreements to be issued by the applicant to:

1. Enrollees; and

2. Any employers, unions, or any other groups; and

(g) Evidence of financial responsibility as provided in KRS 304.38-060.

Section 27. KRS 304.38-060 is amended to read as follows:

Upon receipt of an application for issuance of a certificate of authority, the Commissioner shall issue or deny the same. Issuance of a certificate of authority shall be granted only if the Commissioner finds that the applicant has complied with KRS 304.38-040, has paid the application fee and the Commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the application are competent, trustworthy, and possess good reputations:

(2) The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the Commissioner may consider:

(a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the Health Maintenance Organization;

(d) Any agreement with providers for the provision of health care services; and

(e) *Compliance* [~~Any surety bond or deposit of cash or securities submitted in accordance~~] with KRS 304.38-070, as a guarantee that the obligations will be duly performed.

Section 28. KRS 304.38-070 is amended to read as follows:

(1) This subsection applies to a corporation applying for and holding a certificate of authority as a health maintenance organization.

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars ($1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars ($2,000,000).

(b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to the effective date of this Act may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to the effective date of this Act. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection.

(c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars ($250,000). A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to the effective date of this Act may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to the effective date of this Act. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.

(2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization.

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars ($3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars ($1,250,000) in its capital accounts.

(b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to the effective date of this Act may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to the effective date of this Act. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection [~~Each health maintenance organization shall furnish a surety bond satisfactory to the commissioner, or deposit with the commissioner cash or securities acceptable to him in an amount not more than $500,000, so that the obligations to the enrollees will be performed. The commissioner may waive this requirement whenever satisfied that the assets of the organization are sufficient to reasonably assure the performance of its obligations~~].

Section 29. KRS 304.38-110 is amended to read as follows:

The commissioner shall[~~, after notice and hearing,~~] promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents, and the termination or revocation of such license. An "agent" means any person directly or indirectly associated with such organization who engages in solicitation or enrollment of persons for profit or pecuniary gain in a health maintenance organization.

Section 30. KRS 304.38-150 is amended to read as follows:

The commissioner may[~~, after notice and hearing,~~] promulgate reasonable rules and regulations not inconsistent with the provisions of this subtitle that he deems necessary for the proper administration of this subtitle.

Section 31. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Either (i) split limits liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one person, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury sustained by all persons injured as a result of any one accident, plus liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; or (ii) single limits liability coverage of not less than sixty thousand dollars ($60,000) for all damages whether arising out of bodily injury or damage to property as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and

(c) Basic reparation benefits as defined in KRS 304.39-020(2).

(2) [~~Any constable authorized by the fiscal court to utilize blue lights and a siren under the provisions of KRS 189.950(5) shall be required to have security of payment of tort liability as follows:~~

~~(a) Liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one (1) person as a result of any one (1) accident, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading of the secured vehicle;~~

~~(b) Liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading of the secured vehicle;~~

~~(c) The liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possession, and Canada; and~~

~~(d) Basic reparation benefits as defined in KRS 304.39-020(2).~~

~~(3)~~] Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

(3)[~~(4)~~] Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a) (b), and (c) of this section.

Section 32. KRS 304.42.090 is amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after prior written notice to the member insurers and shall accrue interest at 8% per annum on and after the due date.

(2) There shall be three (3) classes of assessments:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under the authority of subsection (5) of KRS 304.42-120 not related to a particular impaired or insolvent insurer;

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an impaired or insolvent domestic insurer;

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an insolvent foreign or alien insurer.

(3) (a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall be credited against future insolvency assessments and shall not exceed *one hundred and fifty dollars ($150)* [~~fifty dollars ($50)~~] per *member insurer* [~~company~~] in any one (1) calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies;

(b) Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers;

(c) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers;

(d) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this subtitle. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this subtitle.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this subtitle, to consider the amount reasonably necessary to meet its assessment obligations under this subtitle.

(8) The association shall issue to each insurer paying an assessment under this subtitle, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

Section 33, KRS 304.43-080 is amended to read as follows:

(1) A prepaid dental plan shall register the names of all persons acting as its agents with the commissioner within thirty (30) days after July 15, 1982.

(2) The commissioner shall, within one (1) year from July 15, 1982 [~~and after notice and hearing~~], promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents, and the termination or revocation of such licenses.

SECTION 34. A NEW SECTION OF KRS CHAPTER 304.44-030 to 304.44-040 IS CREATED TO READ AS FOLLOWS:

The administrator may invest the mine subsidence insurance fund in the same types of investments which are permitted for authorized insurers under subtitle 7 of KRS Chapter 304. All income from investments credited to the mine subsidence insurance fund shall be credited to that fund.

Section 35. KRS 304.99-020 is amended to read as follows:

(1) For any violation of this code where the commissioner has the power to revoke or suspend a license or certificate of authority he may in lieu thereof or in addition to such revocation or suspension impose a civil penalty against the violator in the case of an insurer, *a fraternal benefit society, non-profit hospital, medical-surgical, dental, and health service corporation, health maintenance organization, or prepaid dental plan organization,* of not more than ten thousand dollars ($10,000) per violation; in the case of an agent, broker or solicitor of not more than one thousand dollars ($1,000) per violation; in the case of an adjuster or consultant of not more than two thousand dollars ($2,000) per violation.

(2) Such civil penalty may be recovered in an action brought thereon in the name of the commonwealth of Kentucky in any court of appropriate jurisdiction.

(3) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount.

Section 36. The following KRS sections are repealed:

304.12-015 Unfair methods of competition, unfair or deceptive acts or practices enumerated—Application of section.

304.99-040 Penalties for violation of Subtitle 38.

The Committee Amendment No. 1 to HB 631 is as follows:

Amend printed copy of HB 631:

On page 47, line 13, by deleting "*two*" and by deleting the brackets and strikethrough around "one";

and

On page 47, line 14, by deleting "*(2%)*" and inserting "*(1%)*" in lieu thereof

HB 659, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 290.070 is amended to read as follows:

[~~(1) A credit union may receive the savings of its members in payment for shares or on deposit, may lend its funds to its members for provident and productive purposes, or may undertake such other activities, consistent with the purposes of this chapter and relating to the business of the corporation, as its bylaws authorize.~~

~~(2)~~] Credit unions shall be under the supervision of the commissioner, who may make general rules and regulations, and special rulings, demands and findings necessary for the proper conduct and regulation of the business. Such action by the commissioner shall be in addition to and not in conflict with the provisions of this chapter.

[~~(3) Each credit union organized under this chapter shall maintain insurance of its member share and deposit accounts by the Administrator of the National Credit Union Administration or other federal agency responsible for insuring member share or deposit accounts in state-chartered credit unions.~~

~~(4) Each credit union shall apply for federal insurance of its share and deposit accounts not later than December 31, 1974. Each credit union whose application is disapproved shall either dissolve, merge with an insured credit union or apply in writing within 30 days of written notice of the denial to the commissioner for additional time to obtain approval. The commissioner shall grant whatever additional time is necessary to obtain approval, upon satisfactory evidence that the credit union has made or is making a substantial effort to meet the requirements necessary for federal insurance, but in no event shall the additional time extend beyond December 31, 1976.~~]

Section 2. KRS 290.185 is amended to read as follows:

(1) A credit union has a special obligation of confidentiality to its members; therefore, the provisions of KRS 271A.260 shall be limited to the extent that a credit union shall be obligated to provide a shareholder only names and addresses of its member shareholders.

(2) No officer or director of a credit union or employe of the department shall release any information contained in the report of examination, except so far as necessary in the performance of his official duties as provided by law.

(3) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(4) Every official report concerning a credit union and every report of an examination shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department or credit union is a party. Such reports shall not be made public except when required in proper legal proceedings.

Section 3. KRS 290.405 is amended to read as follows:

(1) [~~Not later than December 31, 1984,~~] A credit union shall *maintain* [~~apply for~~] insurance on shares and deposits as provided by the national credit union administration under title II of the Federal Credit Union Act (12 USC section 1781 et seq)[~~, or alternatively, a form of comparable insurance approved by the commissioner~~]. This requirement does not apply to a credit union with debt and equity capital consisting primarily of funds from other credit unions.

(2) A credit union which has been denied a commitment for such insurance shall within thirty (30) days commence steps to either liquidate, or merge with an insured credit union, or apply in writing to the commissioner for additional time to obtain an insurance commitment. The commissioner may grant one (1) or more extensions of time to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making substantial effort to achieve the conditions precedent to issuance of the commitment.

(3) No credit union shall be granted a charter by the commissioner unless such credit union has obtained a commitment for insurance of its member share and deposit accounts *as provided in subsection (1) of this section.*

(4) The commissioner may make available reports of condition and examination findings to the national credit union administration [~~or to any qualified insuring organization~~] and may accept any report of examination made on behalf of such agency [~~or organizations~~]. The commissioner may appoint an official of the national credit union administration [~~or of any qualified insuring organization~~] as liquidating agent of an insured credit union.

Section 4. KRS 290.990 is amended to read as follows:

(1) [~~Any person or organization who violates KRS 290.045 shall be fined not less than fifty dollars ($50.00)~~

~~nor more than five hundred dollars ($500) or imprisoned not less than three (3) months nor more than one (1) year, or both.~~

~~(2)~~] Any credit union that fails to make the report required by KRS 290.090, when notified, shall pay to the department ten dollars ($10.00) for each day of such failure, unless excused.

(2)[~~(3)~~] Any officer or any member of a committee who participates in the making of a loan to a non-member shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

The Committee Substitute to HB 659 is as follows:

HB 659, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 290.070 is amended to read as follows:

[~~(1) A credit union may receive the savings of its members in payment for shares or on deposit, may lend its funds to its members for provident and productive purposes, or may undertake such other activities, consistent with the purposes of this chapter and relating to the business of the corporation, as its bylaws authorize.~~

~~(2)~~] Credit unions shall be under the supervision of the commissioner, who may make general rules and regulations, and special rulings, demands and findings necessary for the proper conduct and regulation of the business. Such action by the commissioner shall be in addition to and not in conflict with the provisions of this chapter.

[~~(3) Each credit union organized under this chapter shall maintain insurance of its member share and deposit accounts by the Administrator of the National Credit Union Administration or other federal agency responsible for insuring member share or deposit accounts in state-chartered credit unions.~~

~~(4) Each credit union shall apply for federal insurance of its share and deposit accounts not later than December 31, 1974. Each credit union whose application is disapproved shall either dissolve, merge with an insured credit union or apply in writing within 30 days of written notice of the denial to the commissioner for additional time to obtain approval. The commissioner shall grant whatever additional time is necessary to obtain approval, upon satisfactory evidence that the credit union has made or is making a substantial effort to meet the requirements necessary for federal insurance, but in no event shall the additional time extend beyond December 31, 1976.~~]

Section 2. KRS 290.185 is amended to read as follows:

(1) A credit union has a special obligation of confidentiality to its members; therefore, the provisions of KRS 271A.260 shall be limited to the extent that a credit union shall be obligated to provide a shareholder only names and addresses of its member shareholders.

(2) No officer or director of a credit union or employe of the department shall release any information contained in the report of examination, except so far as necessary in the performance of his official duties as provided by law.

(3) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(4) Every official report concerning a credit union and every report of an examination shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department or credit union is a party. Such reports shall not be made public except when required in proper legal proceedings.

Section 3. KRS 290.990 is amended to read as follows:

(1) [~~Any person or organization who violates KRS 290.045 shall be fined not less than fifty dollars ($50.00)~~

~~nor more than five hundred dollars ($500) or imprisoned not less than three (3) months nor more than one (1) year, or both.~~

~~(2)~~] Any credit union that fails to make the report required by KRS 290.090, when notified, shall pay to the department ten dollars ($10.00) for each day of such failure, unless excused.

(2)[~~(3)~~] Any officer or any member of a committee who participates in the making of a loan to a non-member shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

HB 692, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any nonprofit hospital, medical-surgical, dental and health service corporation subject to the provisions of this subtitle, possessed of admitted assets in excess of all liabilities at least equal to the original surplus required of a domestic mutual insurance company transacting the same kind or kinds of business may, at its option and without reincorporation, adopt and become subject to the provisions of subtitle 24 of KRS Chapter 304 governing domestic mutual insurers in lieu of this subtitle; provided, however, that upon becoming subject to the provisions of subtitle 24 of KRS Chapter 304, as hereinafter provided, such companies may continue to provide services to their present or like services to future members and subscribers and may make provision for the payment for health care services directly to hospitals or other agencies or institutions or persons rendering such health care service or related services or may make direct payment to the member or subscriber.

(2) Any nonprofit hospital, medical-surgical, dental and health service corporation subject to the provisions of this subtitle may adopt and become subject to the provisions of subtitle 24 of KRS Chapter 304 by the adoption of a resolution by its board of directors declaring the election of said nonprofit hospital, medical-surgical, dental and health service corporation to become subject to the provisions of subtitle 24 of KRS Chapter 304 governing domestic mutual insurers, and after the adoption of such resolution the board of directors shall adopt such amendments to the articles of incorporation and bylaws of the nonprofit hospital, medical-surgical, dental and health service corporation as shall be necessary and file the same with the commissioner of the department of insurance of the Commonwealth of Kentucky. Upon such filing, said nonprofit hospital, medical-surgical, dental and health service corporation shall no longer be subject to the provisions of subtitle 32 of KRS Chapter 304, but shall be subject to subtitle 24 of KRS Chapter 304 governing domestic mutual insurers; provided, however, that group certificate holders may also be members of the insurer, if so specified in the bylaws of the insurer; and further provided that the conversion of a nonprofit hospital, medical-surgical, dental and health service corporation, subject to this subtitle, into a domestic mutual insurance company shall not impair the rights or obligations of the nonprofit hospital, medical-surgical, dental and health service corporation or its members on any contract hereafter made.

The Committee Amendment No. 1 to HB 692 is as follows:

Amend printed copy of HB 692:

On page 2, line 19 by deleting "*;*" after "*insurers*"

On page 2, line 19 after "*insurers;*" by adding "*and shall honor all legitimate claims presented by its member policyholders under the terms and conditions of its policy who have incurred claims in any private hospital with acute care in the state of Kentucky as long as the hospital is duly licensed and certified by the state of Kentucky;*"

On page 3, line 2 after "*contract*" by inserting "*heretofore or*"

HB 700, AN ACT relating to investments by fiduciaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Any other provisions of this chapter notwithstanding, and in the absence of an express provision to the contrary in an instrument establishing a fiduciary relationship, whenever such instrument requires, directs, authorizes, or permits a fiduciary to invest funds in obligations of the United States government or in obligations unconditionally guaranteed by the United States government, such fiduciary may invest in and hold such obligations either directly or in the form of securities in any open-end management type investment company or investment trust registered under the investment company act of 1940, as from time to time amended, provided that the portfolio of such investment company or investment trust is limited to such obligations and to repurchase agreements fully collateralized by such obligations and provided further that any such investment company or investment trust shall take delivery of such collateral either directly or through an authorized custodian.

HB 709, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.030 is amended to read as follows:

(1) As used in this section, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization.

(2) No persons, except corporations, shall engage in the business of private banking in this state.

(3) No bank incorporated under the laws of another state or national bank having its principal place of business outside this state shall transact any banking business in this state except to lend money.

(4) No person who after July 13, 1984, owns or acquires more than one-half (1/2) of the capital stock of a bank shall act as insurance agent or broker with respect to any insurance except credit life insurance, credit health insurance, insurance of the interest of a real property mortgagee in mortgaged property, other than title insurance.

(5) [~~Any person or successor or successors thereto, may continue to hold or own capital stock of any bank or combined bank and trust company held or owned by such person or entity upon July 13, 1984, and may thereafter acquire such additional capital stock as is necessary to maintain the same percentage of ownership of capital stock which exists upon July 13, 1984.~~

~~(6)~~] No bank incorporated under the laws of the Commonwealth of Kentucky shall make any loan or discount on the security of the shares of its own capital stock, *or the shares of stock of a bank holding company which controls the bank to the extent that such loan or discount secured by such shares exceeds the amounts permitted by Section 23(A) of the Federal Reserve Act (12 U.S.C. Sec. 371c) as that section reads on the effective date of this Act*, nor be the purchaser or holder of any such shares, except that a bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business; and stock so purchased or acquired, shall, within six months from the time of its purchase *or acquisition*, be sold or disposed of at public or private sale. This subsection shall not affect or modify in any way KRS 386.025, but said section shall remain in full force and effect.

Section 2. KRS 287.040 is amended to read as follows:

(1) Any five (5) or more persons may organize a banking corporation.

(2) Any seven (7) or more persons may organize a corporation for the purpose of conducting a trust business.

(3) Any seven (7) or more persons may organize a corporation for the purpose of conducting a combined banking and trust business.

(4) The board of directors of a banking corporation, trust corporation or combined bank and trust corporation shall be no less than the required number of incorporators.

Section 3. KRS 287.050 is amended to read as follows:

(1) Before filing the articles of incorporation of any financial institution mentioned in KRS 287.040, the incorporators shall present a copy of their proposed articles to the commissioner who shall investigate the financial standing, moral character and capability of each of the incorporators *and proposed executive officers and directors, if known*, and determine whether there is reasonable assurance of sufficient volume of business for the proposed corporation to be successful, and whether the public convenience and advantage will be promoted by the opening of the proposed corporation.

(2) In the event that the institution for which a charter is sought is to be created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company, the commissioner may waive all or any part of the requirements of subsection (1) of this section.

(3) If the commissioner determines that it is expedient and desirable to permit the proposed corporation to engage in business, he shall approve the articles of incorporation in writing, and the articles then may be filed and recorded as provided in the general corporation law.

(4) All amendments to the articles of incorporation of any financial institution mentioned in KRS 287.040 shall be approved by the commissioner before filing with the secretary of state.

Section 4. KRS 287.065 is amended to read as follows:

(1) Each director of a bank or trust company shall own in his own right unpledged capital stock of that bank or trust company, or of a corporation holding at least eighty percent (80%) of the outstanding capital stock of that bank or trust company, having *a book* [~~an aggregate~~] value of at least *one thousand dollars ($1,000)* [~~$500~~] at the time such person becomes a director, and the certificates of such stock shall remain in the exclusive custody and control of that bank or trust company during his term of office.

(2) A majority of the directors of any board must be residents of Kentucky during their term of office.

(3) Each director shall exercise such ordinary care and diligence as necessary and reasonable to administer the affairs of the bank in a safe and sound manner. In this regard, the bank shall furnish each director with a copy of an appropriate publication outlining the duties of a bank director and an updated copy of the Kentucky banking law, and maintain in the bank updated copies of federal banking laws, as determined by administrative regulations.

Section 5. KRS 287.080 is amended to read as follows:

The minimum capital required of a financial institution by KRS 287.070 shall be paid in full in money, and in addition thereto there shall be so paid in a surplus of not less than fifty per cent (50%) of the minimum capital required. Such money shall be in the custody of the directors before the corporation may commence business. *None of the original minimum capital of a financial institution may be designated as undivided profits.*

Section 6. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) Such real estate is necessary or appropriate for the transaction of legitimate business, and

(b) The cost of such real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). *Such investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner* [~~The commissioner may permit the investment of a larger amount~~];

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. *A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;*

(4) Invest in the bonds of any Federal Home Loan Bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business.

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. 1861) and any amendments thereto;[~~.~~]

(9) Invest in:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an act of congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the bank's generally accepted banking market. Such investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. Provided, however, that any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank;

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank.

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other such investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

Section 7. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish, within the city in which either the principal office or an existing branch office which has been annexed into the city *or acquired by merger* is located and, subject to the limitation hereinafter imposed, within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such branch *based upon the financial and managerial impact of the branch on the bank establishing the branch.* No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than $100,000 shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:

1. An unincorporated area or in a city of 7,999 population or less	$100,000
2. City with population of 8,000 to 19,999	$200,000

3. City with population of 19,999 and over one (1) branch may be authorized for every $250,000 of capital and surplus.

Said population is to be determined by the last census or any future census of the United States.

(b) No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city *or acquired by merger* is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof.

(c) The permission to open a branch shall lapse one year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for whatever period of time he deems to be necessary.

(d) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks

involved shall have been in operation for a period of five (5) years or more. *The bank which does not survive the merger must surrender its charter.*

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to discontinue operation may be required to give notice of the date when such operation will cease.

Section 8. KRS 287.185 is amended to read as follows:

(1) No branch or principal office of any bank shall be moved from one location to another without the approval of the commissioner. Before the commissioner shall approve or disapprove any such change of location he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is a reasonable probability of the successful operation of such branch or principal office at the new location.

(2) If a bank wishes to move its principal office from one location to another and retain its former principal office as a branch, the provisions of subsection (1) of this section shall be followed in regard to approval of the change of location. A final order by the commissioner approving or disapproving the change of location shall be deemed to constitute a similar approval or disapproval of the former principal office as a branch, and no further administrative proceedings shall be necessary. In no event shall the restrictions contained in KRS 287.180 as to where a branch may be located apply so as to prevent the approval of a former principal office as a branch in the manner provided for by this subsection.

(3) If the location of a branch or principal office is changed in the manner provided by either subsection (1) or (2) of this section, and if the new location *of the branch or principal office* is to be outside the corporation limits of the city in which it was formerly located, such new location *of the branch or principal office* must comply with the restrictions set out in KRS 287.180(2)(b) [~~in regard to where a branch may be located~~]. If a branch or principal office was formerly located in an unincorporated area and the new branch or principal office is to be located more than one (1) mile from the former branch or principal office, *such new location of the branch or principal office must comply with* the restrictions set out in KRS 287.180(2)(b) [~~as to where a branch may be located must also be complied with~~].

Section 9. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal *property* [~~estate~~] which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances.

(2) No bank or trust company shall permit any of its directors or *executive* officers to become indebted *to it* or *become* obligated as guarantor or surety to it in an amount *which exceeds that which any other person is authorized by this section to become indebted or obligated. Such indebtedness or obligation is permitted if:*

(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and

(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank and the interested party has abstained from participating directly or indirectly in the voting [~~exceeding ten per cent (10%) of its capital stock actually paid in, without securing the excess by the mortgage or pledge of real personal property double in value the amount of the excess~~].

(3) In no event shall the indebtedness or obligation of any person exceed thirty per cent (30%) of the paid-in capital and actual surplus of a bank or trust company.

(4) In computing the indebtedness of *any person* [~~a partnership~~], the liability of *any partnership in which the person acts as a general partner* [~~the individual members~~] shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

Section 10. KRS 287.470 is amended to read as follows:

(1) *Reports of examination of a bank or trust company shall be considered confidential information.* No officer *or director of a bank or trust company* or employe of the department shall *release* [~~impart~~] any information *contained in* [~~obtained by him by~~] the examination, except *when:*

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank [~~so far as necessary in the performance of his official duty as provided by law~~].

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized *state or federal regulatory* [~~supervisory~~] authorities, [~~state or federal,~~] including the federal deposit insurance corporation, *the federal reserve board and the office of the comptroller of the currency* [~~and the reconstruction finance corporation~~].

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 11. KRS 287.490 is amended to read as follows:

(1) Every institution under the supervision of the department shall make a written report to the commissioner whenever required by him to do so. The commissioner shall not require more than five (5) reports from any one (1) institution in any one (1) year, unless he deems it necessary in order to obtain complete information, and each report shall be verified by the oath of the corporation's president or vice-president, and its secretary or cashier, or two (2) principal officers.

(2) The reports shall show the actual condition of the bank making the report at the close of business on a date designated by the commissioner and shall specify:

(a) The amount of its capital stock and the number of shares into which it is divided;

(b) The names of the directors, and the number of shares of stock held by them;

(c) The total amount of capital actually paid in, and the total amount of surplus and other reserve funds;

(d) The total amount due depositors, and all other liabilities;

(e) The total amount and character of overdrafts secured, overdrafts not secured and all other assets;

(f) The amount at which the lot and building occupied by the bank for the transaction of its business stands debited on its books, and the market value of all other real estate held, and how acquired, the amount at which it stands debited on the books, and where situated;

(g) The amount loaned on real estate;

(h) The indebtedness or liability of each officer, and of each director to the bank;

(i) The amount invested in bonds and stocks;

(j) The amount loaned on stocks and bonds, on other securities, commercial paper and other notes and bills;

(k) The actual amount of money on hand and on deposit in other banks, and the name of such banks where deposited;

(l) Any other property held, or money loaned, deposited, invested or placed, not otherwise mentioned in this section, and the place where situated and the value of the property, and the amount loaned, deposited, or placed; and

(m) Any other information required by the commissioner.

(3) Any officer, director or board of directors of a bank or trust company shall immediately notify the commissioner concerning any information relating to that financial institution of which they have personal knowledge, involving fraud, defalcation, misfeasance or violations of this chapter. Failure to so notify the commissioner shall be grounds for officer or director removal pursuant to KRS 287.690.

Section 12. KRS 287.900 is amended to read as follows:

(1) For purposes of this section and KRS 287.905:

(a) "Bank" means any institution organized under this chapter, *the banking laws of another state* or the national bank act, as amended, to do a banking business[~~, and having its principal place of business in this state~~]. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years.

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the federal bank holding company act of 1956, as amended (12 U.S.C. Section 1841, et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise.

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation.

(d) "Deposit" has the meaning accorded it in the federal deposit insurance act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all banks to their respective supervisory authorities.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one-bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank

holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than fifteen percent (15%) of the total deposits in all banks in this state as reported in the most recent year-end reports made by the banks to their respective supervisory authorities which are available at the time of the acquisition.

(4) *(a)* During the period expiring five (5) years after July 13, 1984, no individual or company wherever located may, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a bank or bank holding company if as a result thereof such individual or company would acquire control of more than three (3) banks in this state during any twelve (12) month period.

(b) Provided, however, a bank holding company wherever located, may acquire control of a bank holding company which has its principal place of business in this state and which controls more than three (3) banks located in this state under conditions approved by the commissioner which would require the following:

1. That an acquisition made under this subsection shall be limited to only one (1) acquisition; and

2. That the banks acquired in excess of the three (3) bank per year limitation included in this acquisition shall be counted against future acquisitions during the remaining five (5) year period provided in this subsection; and

3. That the total bank acquisitions by a bank holding company shall not exceed in the aggregate fifteen (15) banks during the five (5) year period provided in this subsection.

(5) The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

(6) (a) Any bank holding company having its principal place of business in a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.

(b) From and after two (2) years after July 13, 1984, any bank holding company having its principal place of business in a state other than a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.

(c) For the purposes of this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.

(7) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 13. KRS 287.905 is amended to read as follows:

(1) Any bank holding company which proposes to acquire control of a bank chartered in this state or a bank holding company which includes a bank chartered in this state, shall concurrently file with the commissioner *copies* [~~a copy~~] of the application filed with the federal reserve board under applicable federal law. The commissioner shall approve such acquisition within *ninety (90)* [~~sixty (60)~~] days of acceptance of a complete application *if* [~~unless~~] he finds that:

(a) The terms of the acquisition are [~~not~~] in accordance with the laws of this state; [~~or~~]

(b) The financial condition, or the competence, experience and integrity of the acquiring company or its principals are such as will *not* jeopardize the financial stability of the acquired bank or bank holding company; [~~or~~]

(c) The public convenience and advantage will [~~not~~] be served by the acquisition*; and*

(d) No federal regulatory authority whose approval is required has disapproved the transaction because it would result in a monopoly or substantially lessen competition.

(2) A non-refundable fee shall accompany each application and shall be set by the commissioner in accordance with KRS 287.480.

(3) The commissioner may examine or elect to participate in a joint examination, with the applicable federal *or state* regulatory agency, of any holding company *or nonbank subsidiary of the holding company* that controls *or is affiliated with* a state-chartered bank.

(4) *The commissioner may enter into cooperative agreements with federal or state regulatory authorities to examine an out-of-state bank that is controlled by a Kentucky bank holding company or is controlled by a bank holding company which includes a state-chartered bank, or accept reports of examinations of such out-of-state banks from federal or state regulatory authorities in lieu of conducting examinations.*

(5) The commissioner may enter into cooperative agreements with federal or state regulatory authorities to exchange confidential information and reports of examination relating to interstate acquisitions of banks and bank holding companies.

(6) The cost of an examination shall be assessed against and paid by the company examined. The assessment for the examination shall be calculated in the same manner as that used for bank examinations.

SECTION 14. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

For purposes of this chapter, it shall be illegal for any individual, corporation or bank holding company to directly or indirectly acquire, control, hold, charter, convert or operate any bank located in this state which is an "insured bank" or eligible to make application to become an "insured bank" as that term is defined in the federal deposit insurance act, which does not both accept deposits that the depositor has the legal right to withdraw on demand and actively engage in the business of making commercial loans.

SECTION 15. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Any officer or director removed from office pursuant to the provisions of KRS 287.690, shall not serve as an officer or director of any state-chartered bank without prior written approval of the commissioner.

Section 16. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than *five hundred dollars ($500)* [~~twenty ($20.00)~~] nor more than *one thousand dollars ($1,000)* [~~fifty dollars ($50.00)~~] for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) [~~to be sued for and collected by the commissioner in the name of the state~~].

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of *one hundred dollars ($100)* [~~twenty-five dollars ($25)~~] for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed *one thousand dollars ($1,000)* [~~two hundred and fifty dollars ($250)~~].

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than *five hundred dollars ($500)* [~~one hundred ($100)~~] nor more than five *thousand* [~~hundred~~] dollars *($5,000)* [~~($500)~~].

(10) Whenever any *fine* [~~penalty~~] imposed by subsection *(1), (2),* (4), (6), (7), (8), [~~or~~] (9) *(15), (16), (17) or (18)* of this section is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the *fine* [~~penalty~~].

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a *fine* [~~civil penalty~~] of not more than one thousand dollars ($1,000) per day for each day such violation continues. The *fine* [~~penalty~~] shall be assessed [~~and~~

~~collected~~] by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the *fine* [~~penalty~~] the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank which violates any provisions of KRS 287.100(10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director who violates the provisions of KRS 287.280(1) and (3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

Section 17. The following KRS sections are repealed:

287.120 Use of funds of combined banks and trust companies.

287.500 Effect of reports of commissioner and examiners—When to be made public.

SB 155, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 24 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Such a domestic insurer will be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such a transfer such an insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in his discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger,

consolidation, or merger pursuant to KRS 271A.383(4), or any other lawful method, shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

Section 2. KRS 271A.385 is amended to read as follows:

(1) One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized;

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of this chapter with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the Secretary of State of this state:

1. An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

2. An irrevocable appointment of the Secretary of State of this state as its agent to accept service of process in any such proceeding;

3. An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this chapter with respect to the rights of dissenting shareholders; and

4. An agreement that the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of this state in all matters which may arise as if said merger or consolidation had not taken place.

(2) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

(4) The redomestication of a foreign insurer to this state pursuant to Section 1 of this Act shall be deemed a merger of a foreign corporation and a domestic corporation and the surviving corporation shall be deemed a domestic corporation incorporated under the laws of this state. The redomestication of a domestic insurer to another state pursuant to Section 1 of this Act shall be deemed a merger of a domestic corporation and a foreign corporation and the surviving corporation shall be deemed to be foreign corporation incorporated under the laws of such other state.

SB 156, AN ACT relating to banks and trust companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.105 is amended to read as follows:

Subject to such limitations and conditions as the commissioner may from time to time prescribe by general regulations, any bank or trust company organized under the laws of this state may purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such personal property, provided, however, that [~~for the purposes of this section the term "personal property" shall not include a motor vehicle required to be registered under KRS Chapter 186, and provided further, that~~] the net unrecovered investment of such bank or trust company in such personal property shall, for the purposes of KRS 287.280 only, be deemed to be an indebtedness of the lessee thereof, and such personal property shall be considered to be collateral securing such indebtedness.

The Committee on Labor and Industry reported HB 359, with Committee Amendment attached thereto, HB 362, with Committee Amendment attached thereto, HB 499, with Committee Amendment attached thereto, HB 633, HCR 66 and HJR 78 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 359, AN ACT relating to the occupational safety and health of employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 338.121 is amended to read as follows:

(1) Any employe, or representative of employes, who believes that a violation of an occupational safety and health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the commissioner of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employes or representative of employes, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employes referred to therein shall not appear in such copy.

(2) If upon receipt of notification, reasonable grounds are believed to exist for such violation or danger, then a special inspection shall be made in accordance with the provisions of KRS 338.101 and 338.111. If no reasonable grounds are believed to exist for such violation of danger, then the commissioner shall notify the employe or the representative of the employes in writing of such determination.

(3) (a) No person shall discharge or in any manner discriminate against any employe because such employe has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employe on behalf of himself or others of any right afforded by this chapter.

(b) Any employe who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within a reasonable time after such violation occurs, file a complaint with the commissioner alleging such discrimination. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as deemed appropriate. If upon such investigation, the commissioner determines that the provisions of this subsection have been violated, *he shall issue a citation against the employer which shall be processed in accordance with the provisions of this chapter. Provided, that the secretary may seek an injunction in the circuit court of the county where the offense occurred or in Franklin circuit court to restrain the continuance of the discrimination and secure* [~~action may be brought in any appropriate circuit court against such person. In any such action the circuit court shall have jurisdiction, for cause shown, to restrain violations of paragraph (a) of this subsection and order~~] all appropriate relief including rehiring and reinstatement of the employe to his former position with back pay.

The Committee Amendment No. 1 to HB 359 is as follows:

Amend printed copy of HB 359:

Delete all new language on lines 20 through 26 and beginning on line 20 after the comma by inserting the following: "*he shall issue a citation to the employer which may be challenged or contested in accordance with the provisions of this chapter and the Review Commission may order*"

HB 362, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of workplace standards under the direction and supervision of the secretary of the labor cabinet;

(b) "Department" means department of workplace standards in the labor cabinet;

(c) "Wages" include any compensation due to an employe by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employe or provided to employes as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe; and

(e) "Employe" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to *337.295,* 337.325, *337.395* [~~337.345~~] and [~~337.385 to~~] 337.405 unless the context requires otherwise:

(a) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner of workplace standards showing a status of learner, apprentice, handicapped worker, sheltered workshop employe, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of workplace standards. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

6. Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employe is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency

employes, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employes;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(d) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips;

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the Consumer Price Index released by the U.S. Department of Labor, Bureau of Labor Statistics;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work.

2. "Locality" with respect to contracts advertised or awarded by the department of transportation of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

The Committee Amendment No. 1 to HB 362 is as follows:

Amend printed copy of HB 362:

On page 2, line 6, after "*337.295,*" insert "*337.320,*"

HB 499, AN ACT relating to collective bargaining for fire fighters and law enforcement officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 345.010 is amended to read as follows:

When used in this chapter:

(1) "Public employer" means *any county, urban county or city government within the Commonwealth* [~~a city containing a population of at least 300,000 as determined by the last federal census or any city that petitions the commissioner of the department of workplace standards, under the direction of the secretary of the labor cabinet to be included by this chapter~~];

(2) "Fire fighter" means an employe of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(3) *"Law enforcement officer" means a full-time member of a lawfully organized police department of county, urban county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any elected officer, sheriff, deputy sheriff, constable, deputy constable, district detective, deputy district detective, special local police officer, auxiliary police officer, or any other peace officer not specifically authorized by this Act;*

(4) "Labor organization" means*:*

(a) Any chartered labor organization of any kind in which fire fighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment or conditions of employment; *or*

(b) Any fraternal order in which law enforcement officers participate and which, as one (1) of its functions, deals with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment or conditions of employment.

(5)[~~(4)~~] "Exclusive representative" means the labor organization which has been designated by the state labor relations board as the representative of the majority of fire fighters *or law enforcement officers* in appropriate units or has been so recognized by the public employer;

(6)[~~(5)~~] "Board" means the state labor relations board;

(7)[~~(6)~~] "Person" includes one or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(8)[~~(7)~~] "Commissioner" means the commissioner of the department of workplace standards, under the direction and supervision of the secretary of the labor cabinet of the Commonwealth of Kentucky.

Section 2. KRS 345.020 is amended to read as follows:

(1) Whereas, the denial by some public employers of the right of fire fighters *or law enforcement officers* to organize and the refusal by such employers to accept the procedure of collective bargaining leads to various forms of strife and unrest, with the consequent effect of obstructing public business. Unresolved disputes in the public service are injurious to the public, the governmental agencies involved, and the fire fighters *or law enforcement officers.*

(2) Whereas, experience has proved that protection by law of the right of public employes to organize and bargain collectively safeguards the public business from injury, impairment, or interruptions, and promotes public business by removing certain recognized sources of strife and unrest, by encouraging practices fundamental to the friendly adjustment of disputes arising out of differences as to wages, hours, or other working conditions, and by creating equality of bargaining power between employers and employes.

(3) Whereas, it is hereby declared to be the policy of the State of Kentucky to eliminate the causes of certain substantial obstructions to public business and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by fire fighters *and law enforcement officers* of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Section 3. KRS 345.030 is amended to read as follows:

(1) Fire fighters *and law enforcement officers* of a *public employer* [~~city containing a population of at least 300,000 as determined by the federal census~~] shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint or coercion.

(2) Labor organizations designated by the state board of labor relations as the representative of the majority of fire fighters *or law enforcement officers* in an appropriate unit or recognized by a public employer as the representative of the majority of employes in an appropriate unit shall be the exclusive representative for the employes of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment.

(3) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions of this chapter shall be responsible for representing the interest of all fire fighters *or law enforcement officers* in the unit without discrimination.

Section 4. KRS 345.040 is amended to read as follows:

The public employer and such labor organization as has been designated as exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively as set forth in subsection (3) of KRS 345.050.

Section 5. KRS 345.050 is amended to read as follows:

(1) Public employers, their representatives or their agents are prohibited from:

(a) Interfering, restraining or coercing fire fighters *or law enforcement officers* in the exercise of the rights guaranteed in KRS 345.030;

(b) Dominating or interfering with the formation, existence or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this chapter, or in any other statute of this state, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employe because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Fire fighters *or law enforcement officers* in the exercise of the right guaranteed in subsection (1) of KRS 345.030, and

2. A public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this chapter as the exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit.

(3) For the purposes of this chapter, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 6. KRS 345.060 is amended to read as follows:

(1) Whenever in accordance with such regulations and as may be prescribed by the State Labor Relations Board a petition has been filed:

(a) By a fire fighter *or law enforcement officer* or group of fire fighters *or law enforcement officers* or any labor organization acting in behalf of *thirty* [~~30~~] percent *(30%)* of the employes who have signed union affiliation cards *or petitions* and the *labor organization* [~~union~~] showing proof of representation:

1. Wish to be represented for collective bargaining by a labor organization as exclusive representative, or

2. Assert that the labor organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employes in the unit; or

(b) By the public employer alleging that one or more labor organizations has presented to it a claim to be recognized as a representative of the majority of fire fighters *or law enforcement officers* in an appropriate unit; the board shall investigate such petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the fire fighters *or law enforcement officers* desire to be represented and shall certify the result thereof.

(2) The board shall decide in each case, in order to assure fire fighters *or law enforcement officers* the fullest freedom in exercising the rights guaranteed by this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the fire fighters *or law enforcement officers* involved, the history of collective bargaining, and the desires of the fire fighters *or law enforcement officers.*

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve-month period a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as exclusive representative of all the fire fighters *or law enforcement officers* in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by a public agency by mutual consent.

(5) No election shall be directed by the board in any bargaining unit where there is in force and effect a valid collective bargaining agreement. Provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Section 7. KRS 345.070 is amended to read as follows:

Violations of the provisions of KRS 345.050 shall be deemed to be unfair labor practices remedial by the board in the following manner.

(1) Whenever it is charged by a public employer or a labor organization that any person has engaged in or is engaging in any such unfair labor practices, the board, or any agent designated by the board for such purposes, shall issue and cause to be served upon the person a copy of the charges and a notice of hearing before the board or a member thereof, or before a designated agent, at a place therein fixed, not less than five days after serving of the copy of the charges by the board. Any charge may be amended by the charging party, at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the person charged shall appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. In the discretion of the member or agent conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the board shall not be bound by the rules of evidence prevailing in the courts.

(2) The testimony taken by the member, agent or the board shall be reduced to writing and filed with the board. Thereafter the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of fire fighters *or law enforcement officers* with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the board shall state its finding of fact and shall issue an order dismissing the complaint. No order shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event, the six-month period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as a fire fighter *or law enforcement officer* who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause.

(3) Until the record in a case has been filed in court, the board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the circuit court for the county in which the violation occurred, the record in the proceedings. Upon the filing of the petition, the circuit court shall cause notice thereof to be served upon the charged party, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its member or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the circuit court for leave to present additional evidence and shows to the satisfaction of the circuit court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, its member or agent, the court may order the additional evidence to be taken before the board, its member or agent, and to be made a part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record (with it) the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Court of Appeals in accordance with the general court rules.

(5) Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court by filing in the circuit court a complaint praying that the order of the board be modified or set aside, with copy of the complaint filed with the board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board. Upon the filing of the complaint, the court shall proceed in the same manner as under subsection (4), and shall grant to the board such temporary relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(6) The commencement of proceedings under subsections (4) and (5) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(7) Complaints filed under this chapter shall be heard expeditiously by the court to which presented, and shall take precedence over all other civil matters except earlier matters of the same character.

Section 8. KRS 345.090 is amended to read as follows:

Except as hereinafter provided, when a labor organization has been designated in accordance with the provisions hereof as the exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit, the chief executive officer of the political subdivision, whether elected or appointed, or his designated authorized representative or authorized representatives, shall represent the public employer in collective bargaining with such employe organization.

Section 9. KRS 345.100 is amended to read as follows:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this chapter and signed by the chief executive officer of the political subdivision or his representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a political subdivision and a labor organization provided by this chapter shall be the exclusive method of making a valid agreement for fire fighters *or law enforcement officers* represented by a labor organization.

(3) Suits for violation of agreements between a public employer and a labor organization representing fire fighters *or law enforcement officers* may be brought by the parties to such agreement in the circuit court of the county of the employer or in cases where the state is the employer in the Franklin Circuit Court.

Section 10. KRS 345.110 is amended to read as follows:

Upon the written authorization of any fire fighters *or law enforcement officers* within a bargaining unit, the public employer shall deduct from the payroll of the public employe the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

Section 11. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a state labor relations board to assist in resolving disputes between public employers and fire fighters *or law enforcement officers* or their labor organization which shall be composed of three (3) members appointed by the governor, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. The governor shall designate one (1) member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the governor.

(2) Each member of the board shall have been an elector in this state for at least one (1) year next preceding his appointment. Any member may be removed by the governor for cause, shown in a public hearing after the accused has been given a copy of the charges made and has had an opportunity to answer such charges. The governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid fifty dollars ($50) and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the labor relations board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employes as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter may be served personally, by certified mail, return receipt requested or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

(8) The board shall be attached to the labor cabinet for administrative purposes.

Section 12. KRS 345.130 is amended to read as follows:

No fire fighter *or law enforcement officer* shall engage in, and no fire fighter *or law enforcement officer* labor organization shall sponsor or condone any strike.

The Committee Amendment No. 1 to **HB 499** is as follows:

Amend printed copy of **HB 499**:

On page 4, line 11, by deleting "*and law enforcement officers*"

and after line 19 by inserting:

"*(2) Law enforcement officers may have and may be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint or coercion.*"

And renumber the succeeding subsections accordingly.

HB 633, AN ACT relating to mediation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any person acting as a mediator in a labor dispute pursuant to the provisions of this chapter, who receives information as a mediator relating to the labor dispute, shall not reveal such information received by him in the course of mediation in any administrative, civil or arbitration proceeding.

HCR 66, A CONCURRENT RESOLUTION requesting and encouraging the Kentucky Occupational Safety and Health Standards Board to review its regulations as they relate to hazardous substances in the workplace.

WHEREAS, the Kentucky Occupational Safety and Health Standards Board is charged with the responsibility of ensuring that employers' provide a work environment that is free of health and safety hazards; and

WHEREAS, the Kentucky Occupational Safety and Health Standards Board has adopted the Federal Hazard Communication Standard which requires employers' to notify, educate and warn their employes of the many dangers associated with the use of hazardous chemicals in the workplace; and

WHEREAS, the Federal Hazard Communication Standard provides for the protection of only a small portion of the workforce, leaving the rest of the workforce uneducated and unprotected; and

WHEREAS, the Kentucky Occupational Safety and Health Standards Board responsibility extends beyond protecting a small portion of the workforce;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Occupational Safety and Health Standards Board review its present regulations regarding employe access to information on hazardous substances present in their work environment.

Section 2. That the Kentucky Occupational Safety and Health Standards Board promulgate standards that will protect the safety and health of all Kentucky workers who are required to work with hazardous materials and ensure that they are fully informed as to the nature and dangers of any such substances.

HJR 78, A JOINT RESOLUTION petitioning the Governor to establish a special Task Force on Workers' Compensation and declaring an emergency.

WHEREAS, the projected unfunded liability of the workers' compensation special fund has been estimated to be approximately one billion dollars; and

WHEREAS, the unfunded liability of the workers' compensation special fund is the responsibility of the employers in the Commonwealth; and

WHEREAS, developments and judicial decisions over the years have substantially altered the workers' compensation program in the Commonwealth; and

WHEREAS, workers' compensation insurance costs are increasing, rapidly; and

WHEREAS, the availability of adequate workers' compensation coverage is diminishing; and

WHEREAS,it is crucial that a comprehensive review of the workers' compensation program be undertaken; and

WHEREAS, the problems confronting the Kentucky workers' compensation program are too complex to be addressed during the remainder of the current regular session of the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor of the Commonwealth of Kentucky is hereby petitioned to establish and convene a Task Force on Workers' Compensation. It is recommended that the membership of the Task Force be composed of not more than fourteen members, including two legislators who are members of the Interim Joint Committee on Labor and Industry. It is further recommended that the remaining members of the task force be evenly divided between labor representatives and business/industry with co-chairmen appointed from each group.

Section 2. The Task Force shall conduct a study of the workers' compensation program during the period extending from May 1, 1986 to October 1, 1986, unless extended with concurrence of the Governor.

Section 3. The Task Force shall report its findings and legislative recommendations to the Governor and Legislative Research Commission by October 1, 1986, unless extended with concurrence of the Governor.

Section 4. The Task Force shall engage the expertise of workers' compensation experts and actuaries as necessary to fulfill its responsibilities.

Section 5. Staff services for the Task Force on Workers' Compensation shall be provided by LRC and the Labor Cabinet. Staff services and costs incurred by the Legislative Research Commission shall not exceed $10,000 and shall be provided from the regular budget of the Legislative Research Commission subject to the limitations and other research responsibilities of the Commission. Staff services and costs incurred by the Labor Cabinet shall be provided from the budget of the Labor Cabinet.

Section 6. Whereas, the Task Force is required to report its findings and legislative recommendations to the Governor and Legislative Research Commission by October 1, 1986, an emergency is declared to exist, and this Act shall become effective on May 1, 1986.

Orders of the Day

Representative Noe moved to suspend the rules to act upon a Resolution. Agreed.

Representative Noe moved the adoption of the following HR 98:

HR 98, A RESOLUTION honoring and commending Cawood Ledford, a Kentucky legend.

WHEREAS, Cawood Ledford has distinguished himself as one of Kentucky's finest citizens and has been an outstanding ambassador of good will; and

WHEREAS, the Commonwealth is proud to claim him as one of its favorite sons; and

WHEREAS, for 33 years Cawood has been the "Voice of the Kentucky Wildcats," bringing, with his distinctive abilities, an abundance of joy and happiness to thousands of sports fans throughout the United States and overseas; and

WHEREAS, this fine Kentucky gentleman has received numerous awards and commendations, having been voted Kentucky's "Sportscaster of the Year" seventeen times; selected four times as the top college basketball announcer in the nation; named as the recipient of a record, three Eclipse awards for his coverage of thoroughbred racing; and honored by his alma mater, Centre College, as the "Outstanding Graduate"; and

WHEREAS, Cawood Ledford is a member of the Kentucky Journalism Hall of Fame and has authored a book on sportscasting that is used as a textbook by two universities; and

WHEREAS, Cawood Ledford called the Kentucky Derby and the Preakness for CBS radio for many years and has called the NCAA Basketball National Finals for NBC and CBS radio for the past ten years; and

WHEREAS, Cawood Ledford is in a class by himself, as witnessed by the fact that every time the "Cats" are on television, sports fans across the nation turn the T.V. volume off and the radio on in order to hear Cawood call the game; and

WHEREAS, Cawood Ledford is indeed a Kentucky legend;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors and commends Cawood Ledford for the many hours of joyous entertainment which he has brought to Kentuckians everywhere.

Section 2. That when the House adjourns this day, February 25, 1986, it does so in tribute to a man loved and admired by many, a man affectionately known simply as "Cawood."

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Cawood Ledford, the University of Kentucky and the Harlan Public Library, where it is to be placed on file.

HR 98 was adopted by voice vote.

HB 470, as amended by Floor Amendment No. 1 and Floor Amendment No. 2, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of the Floor Amendment No. 3 to HB 470. Agreed.

Representative Priddy moved that HB 470, as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 25. (See February 25, 1986, roll call on HB 470—Appendix A.)

HB 470, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which HB 470, as amended was passed be reconsidered and said motion be placed on the table. Agreed.

HB 78, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Substitute to HB 78. Agreed.

Representative Pearman moved that HB 78, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 25, 1986, roll call on HB 78—Appendix A.)

HB 78, by way of Committee Substitute was passed and the title agreed to.

Representative Pearman moved that the vote by which HB 78, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 392 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that HB 392 be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 25, 1986, roll call on HB 392—Appendix A.)

HB 392 was passed and the title agreed to.

Representative Priddy moved that the vote by which HB 392 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 400 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that HB 400 be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 25, 1986, roll call on HB 400—Appendix A.)

HB 400 was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 400 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 454, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to HB 454. Agreed.

Representative Johnson moved that HB 454, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 3. (See February 25, 1986, roll call on HB 454—Appendix A.)

HB 454, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 454, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 485, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Committee Substitute to HB 485. Agreed.

Representative Hines moved that HB 485, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 25, 1986, roll call on HB 485—Appendix A.)

HB 485, by way of Committee Substitute, was passed and the title agreed to.

Representative Hines moved that the vote by which HB 485, by way of Committee Substitute was passed be reconsidered and said motion be placed on the table. Agreed.

HB 502 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 502 be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 25, 1986, roll call on HB 502—Appendix A.)

HB 502 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 502 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 521, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that HB 521 be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 25, 1986, roll call on HB 521—Appendix A.)

HB 521 was passed and the title agreed to.

Representative Freibert moved that the vote by which HB 521 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that HB 555 be passed.

On the roll call the vote was: Yeas 79, Nays 14. (See February 25, 1986, roll call on HB 555—Appendix A.)

HB 555 was passed and the title agreed to.

Representative Clarke moved that the vote by which HB 555 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 572 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that HB 572 be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See February 25, 1986, roll call on HB 572—Appendix A.)

HB 572 was passed and the title agreed to.

Representative O'Brien moved that the vote by which HB 572 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 592, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Floor Amendment No. 1 to HB 592. Agreed.

Representative Rapier moved that HB 592, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 2. (See February 25, 1986, roll call on HB 592—Appendix A.)

HB 592, as amended, was passed and the title agreed to.

Representative Rapier moved that the vote by which HB 592, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 603 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that HB 603 be passed.

On the roll call the vote was: Yeas 66, Nays 25. (See February 25, 1986, roll call on HB 603—Appendix A.)

HB 603 was passed and the title agreed to.

Representative Blevins moved that the vote by which HB 603 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of the Committee Amendment No. 1 to HB 608. Agreed.

Representative R. Jones moved that HB 608, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 12. (See February 25, 1986, roll call on HB 608—Appendix A.)

HB 608, as amended, was passed and the title agreed to.

Representative R. Jones moved that the vote by which HB 608, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 13 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that SB 13 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1986, roll call on SB 13—Appendix A.)

SB 13 was passed and the title agreed to.

Representative Long moved that the vote by which SB 13 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 51 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 25, 1986, roll call on SB 51—Appendix A.)

SB 51 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 51 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 53 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 53 be passed.

On the roll call the vote was: Yeas 16, Nays 74. (See February 25, 1986, roll call on SB 53—Appendix A.)

SB 53 was defeated.

Representative Hancock moved that the vote by which SB 53 was defeated be reconsidered and said motion be placed on the table. Agreed.

SB 57 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 57 be passed.

On the roll call the vote was: Yeas 82, Nays 5. (See February 25, 1986, roll call on SB 57—Appendix A.)

SB 57 was passed and the title agreed to.

HB 241, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 241 is as follows:

Amend printed copy of HB 241 as follows:

On page 8, line 5, after "(a)" delete all language beginning with "Unless" and ending with "children" on line 7 and insert in lieu thereof:

"*Through the 1987-88 school year*";

On page 8, line 9, delete "such" and insert "*exceptional*" in lieu thereof;

On page 8, line 14, insert "*(b)*" in front of "*Effective*";

On page 8, line 25, delete "*for all other*";

On page 8, line 25, after "*children*" insert "*in all other categories referenced in*";

On page 8, line 26, delete "*pursuant to*";

On page 8, line 26, after the period (.) insert the following:

"*Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance.*"

On page 9, line 16, delete (*b*) and insert (*c*) in lieu thereof;

On page 10, line 5, delete (*c*) and insert (*d*) in lieu thereof;

On page 9, line 4, after "*enforce*" insert "*minimum and*";

On page 10, lines 10 through 18, remove all brackets and strikethroughs;

On page 10, line 10, delete "(c)" and insert "*(11)(a)*" in lieu thereof;

On page 10, line 19, delete "*(11)*" and insert (*b*) in lieu thereof;

On page 10, line 10, delete "exceptional children for."

Representative Noe moved that the House concur in the Senate Amendment No. 1 to HB 241. Agreed.

Representative Noe moved that HB 241, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 25, 1986, roll call on HB 241—Appendix A.)

HB 241, as amended by the Senate, was passed and the title agreed to.

Representative Noe moved that the vote by which HB 241 as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 477, with Senate Committee Substitute attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to HB 477 is as follows:

HB 477, AN ACT relating to public health and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker and other professionals, at least one (1) of whom is a qualified mental health professional, and may include the resident, the resident's family, or the guardian.

(2) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(3)[~~(2)~~] "Mental retardation residential treatment center" means a residential treatment facility approved by the department for the evaluation, care and treatment of mentally retarded persons;

(4)[~~(3)~~] "Qualified mental retardation professional" means:

(a) A psychologist licensed under the provisions of KRS Chapter 319, who has either one year of specialized training for work with mentally retarded persons or one year of clinical experience with mentally retarded persons;

(b) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one year of specialized training for work with mentally retarded persons;

(c) A certified social worker licensed under the provisions of KRS Chapter 335 or accredited by the academy of certified social workers, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one year of specialized training for work with mentally retarded persons;

(d) A psychologist with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one year of specialized training for work with mentally retarded persons; and

(e) Other professional persons with similar training and experience who are qualified according to regulations promulgated by the secretary to participate in 72-hour involuntary hospitalization procedures under this chapter.

(5)[~~(4)~~] "Resident" means a person under care or treatment in a mental retardation residential treatment center pursuant to the provisions of this chapter;

(5) All terms defined in KRS Chapter 202A shall have the same meaning when used in this chapter.

Section 2. KRS 202B.040 is amended to read as follows:

When a person who is alleged to be mentally retarded is involuntarily committed, there shall be a determination that:

(1) He is a mentally retarded person;

(2) He presents (a) danger or a threat of danger to self or others;

(3) The least restrictive alternative mode of treatment requires placement in a hospital or mental retardation residential treatment center; and

(4) Treatment that can reasonably benefit the individual is available in the hospital or mental retardation residential treatment center.

(5) The application by parents or guardians for placement for their retarded family member or ward in any mental retardation treatment center shall not be considered an involuntary commitment under this section, provided the retarded family member's application has been evaluated by an interdisciplinary team as defined in KRS 202B.010 and the subsequent admission fully complies with the provisions of KRS Chapter 202B.

Section 3. KRS 202B.050 is amended to read as follows:

All rights guaranteed by KRS Chapters 202A *(other than those rights enumerated in KRS 202A.026 and 202A.051)* and *KRS Chapter* 210 to mentally ill persons shall apply to mentally retarded persons.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Admission:

(a) Patients shall be admitted only upon the approval of a physician. The facility shall admit only persons who have a physical or mental condition which requires developmental nursing services and a planned program of active treatment;

(b) The interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual, not more than three (3) months before admission, covering physical, emotional, social, and cognitive factors; and

2. Prior to admission define the need for service without regard to availability of those services. The team shall review all available and applicable programs of care, treatment, and training and record its findings;

(c) If admission is not the best plan but the individual must be admitted nevertheless, the facility shall clearly acknowledge that the admission is inappropriate and initiate plans to actively explore alternatives;

(d) Before admission, the resident and a responsible member of his family or committee shall be informed in writing of the established policies of the facility and fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services offered; and

(e) The facility shall provide and maintain a system for identifying each resident's personal property and facilities for safekeeping of his declared valuables. Each resident's clothing and other property shall be reserved for his own use.

(2) Discharge planning. Prior to discharge the facility shall have a postinstitutional plan which identifies the residential setting and support services which would enable the resident to live in a less restrictive alternative to the current setting. Before a resident is released, the facility shall:

(a) Offer counseling to parents or guardians who request the release of a resident concerning the advantages and disadvantages of the release;

(b) Plan for release of the resident, to assure that appropriate services are available in the resident's new environment, including protective supervision and other followup services; and

(c) Prepare and place in the resident's record a summary of findings, progress, and plans.

Section 5. Whereas, Kentucky is currently under a federal court order relating to admissions to mental health facilities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Representative Donnermeyer moved that the House concur in the Senate Committee Substitute to HB 477.

The motion that the House concur in the Senate Committee Substitute to HB 477 was adopted.

Representative Donnermeyer moved that HB 477, as amended by the Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1986, roll call on HB 477—Appendix A.)

HB 477, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 477, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 3, HB 228, HB 229, HB 235, HB 237, HB 239, and HB 268 had been examined and found correctly enrolled. HB 3, HB 228, HB 229, HB 235, HB 237, HB 239 and HB 268 read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 3:55 p.m.)

HB 3, HB 228, HB 229, HB 235, HB 237, HB 239, HB 268 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules for Introductions, Committee Reports and Postings. Agreed.

Introduction of Bills and Resolutions

HB 774, by Representative Scorsone: AN ACT relating to criminal history records.

HB 775, by Representative B. Richardson: AN ACT relating to mechanics' and materialmen's liens.

HB 776, by Representatives Donnermeyer and K. Harper: AN ACT relating to guardianship and conservatorship.

HB 777, by Representatives Scorsone, Hancock, Arnold and Deskins: AN ACT relating to local solid waste management services.

HB 778, by Representatives Burnette, Bruce, White, Cowan and Ellington: AN ACT relating to missing children.

HB 779, by Representative Donnermeyer: AN ACT relating to appeals from district court and issuance of writ by circuit court.

HB 780, by Representative Donnermeyer: AN ACT relating to hospitality education.

HB 781, by Representatives Nett, Priddy, Cowan, Heleringer, Gray and Morris: AN ACT relating to escheat.

HB 782, by Representatives Cyrus, Crupper and Richards: AN ACT relating to sales tax.

HB 783, by Representatives Hancock, Gregory, Clarke, Worthington, Maggard, Ford, Cyrus and Dawahare: AN ACT relating to bonds.

HB 784, by Representative Meyer: AN ACT relating to fire protection districts.

HB 785, by Representative Lear: AN ACT relating to involuntary commitment for drug and alcohol abuse treatment.

HJR 99, by Representative J. Harper: A JOINT RESOLUTION to study hazardous materials emergency response capability.

HJR 100, by Representative Mann: A JOINT RESOLUTION directing the development of a plan to establish a multi-level system of teacher preparation and continuing education.

HR 101, by Representative Donnermeyer: A RESOLUTION adjourning the House of Representatives in commemoration of the 75th anniversary of the dedication of the new State Capitol Building.

HJR 102, by Representative Burch: A JOINT RESOLUTION authorizing and directing a study of the need for increasing the educational preparation of future nurses in the Commonwealth of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Business Organizations and Professions: HB 729, HB 730.

Judiciary-Criminal: HB 478, HB 621.

Agriculture and Small Business: HB 748.

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Judiciary-Criminal: HB 345, HB 559.

Report of Committees Continued

The Committee on Judiciary-Civil reported HB 231, HB 238 with Committee Amendment attached thereto, HB 492, HB 518, HB 519 with Committee Amendment attached thereto, HB 536, HB 545, HB 622 with Committee Amendment attached thereto, SB 28 with Committee Amendments attached thereto, and HCR 62 with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 231, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.050 is amended to read as follows:

(1) Marriage shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Judges of the circuit court, county judges/executive, judges of the district court and such justices of the peace, *or former justices of the peace who served at least two (2) full terms of office and are age sixty-five (65) or older,* as the governor or the county judge/executive authorizes; or

(c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

(2) At least two persons, in addition to the parties and the person solemnizing the marriage, shall be present at every marriage.

HB 238, AN ACT relating to child abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.335 is amended to read as follows:

(1) The purpose of this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports.

(2) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report to be made in accordance with the provisions of this section. Nothing in this section is intended to relieve individuals, agencies or organizations of their obligation to report.

(3) A report shall be made immediately by telephone or otherwise to the department or its delegated representative. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency. If the report is made to any agency other than the department, such agency shall promptly refer the report to the department. The report shall be followed by a written report within forty-eight (48) hours if so requested by the department. The department or its delegated representative shall upon the receipt of the initial report immediately send a report of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such report shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's abuse or neglect (including any evidence of previous abuse or neglect) to this child or his siblings; the name and address of the person responsible for the abuse or neglect; and any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section. The department may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the department to fulfill its responsibilities under this section.

(4) A search warrant shall be issued upon a showing of probable cause that a child is being abused or neglected. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the

persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

(5) In a proceeding before the juvenile session of district court to have a child removed from his home and placed in the custody of the department or the court, substantial evidence that the child is an abused or neglected child shall make a prima facie case for removal of the child even though it is not proved conclusively who has perpetrated the abuse or who has caused the neglect.

(6) Anyone acting upon reasonable cause in the making of a report pursuant to this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report.

(7) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section.

(8) Upon receipt of a report of an abused or neglected child pursuant to this section, the department as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child, preventing further abuse or neglect of the child or any other child under the same care, preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(9) All information obtained by the departmental staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to any one except:

(a) Persons suspected of neglect or abuse, provided that in such cases names of informants may be withheld, unless ordered by the court;

(b) *Both custodial and non-custodial parents or legal guardians of the suspected abused or neglected child, provided that in such cases names of informants may be withheld unless ordered by the court;*

(c) Persons within the department with a legitimate interest or responsibility related to the case;

(d)[~~(c)~~] Other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case; and

(e)[~~(d)~~] Cases where a court orders release of such information.

(10) As a result of any report of suspected child abuse or neglect as defined in KRS 199.011(6) photographs and x-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person responsible for the child, as a part of the medical evaluation or investigation of such reports. Such photographs and x-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person taking such photographs or x-rays shall be immune from criminal or civil liability.

The Committee Amendment No. 1 to HB 238 is as follows:

Amend printed copy of HB 238:

On page 5, line 22

by inserting the word "*educational,*"

after the word "psychological,"

HB 492, AN ACT relating to a cause of action in nuisance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person who obtains all or part of his supply of water for domestic, agricultural or other use from an underground source, where such supply has been affected by contamination, diminution, or interruption resulting from the actions of another, shall have the right to bring an action in nuisance, subject to all of the applicable tests, burdens of proof, and defenses existing at common law. Such action shall be brought in the circuit court of the county in which the operation or activity complained of is located. Nothing in this section shall restrict any other right of action which any person may have under statute or common law.

HB 518, AN ACT relating to records of state treasurer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Treasury checks and records that are susceptible to photostatic reproduction may be proved as to foundation, identity and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner provided herein by the state treasurer as custodian of the originals. The copies may be used in any trial, hearing, deposition or any other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original checks or records, which the treasurer shall hold available during the pendency of the action or proceeding for inspection and comparison by the court, tribunal or hearing officer and by the parties and their attorneys of record.

(2) When a subpoena duces tecum is served upon the state treasurer requiring the production of any checks or records at any action or proceeding, it is sufficient if the state treasurer, as custodian of the original thereof, promptly notifies, in writing, the attorney for the party causing service of the subpoena, of the state treasurer's election to proceed under the provisions of KRS 41.285. Upon notification, the attorney causing the service of the subpoena shall notify all other attorneys of record, or other parties if they are not represented by attorneys, of the state treasurer's procedure. Following notification, the state treasurer as custodian of the checks or records specified in the subpoena shall hold the originals available and shall promptly deliver, by certified mail, legible and durable copies, certified by the state treasurer, of checks or records specified in the subpoena. The certification shall be signed before a notary public by the state treasurer as custodian of the records.

HB 519, AN ACT relating to garnishment of salaries of public officials and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.130 is amended to read as follows:

(1) Salaries or sums due state, county, city and school board officers and employees shall be subject to attachment or garnishment.

(2) All sums due any person from the Commonwealth of Kentucky, or any agency or department thereof, and all sums due from any county school board, city or county, shall be subject to attachment or garnishment.

(3) Service of attachments or garnishments upon the Commonwealth of Kentucky shall be made by serving the secretary of the finance and administration cabinet, and the state treasurer. No attachment or garnishment served upon the Commonwealth shall be valid unless the process shall specify the name of the employe, *the employe's social security number,* or other creditor, and the budget unit and division thereof through which the sum alleged to be due is payable.

The Committee Amendment No. 1 to HB 519 is as follows:

Amend printed copy of HB 519:

On page 1, line 15, after "*number*" insert "*if available.*"

HB 536, AN ACT relating to judicial circuits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the circuit court:

(1) Second Judicial Circuit.

(2) Third Judicial Circuit.

(3) Sixth Judicial Circuit.

(4) Eighth Judicial Circuit.

(5) Ninth Judicial Circuit.

(6) Seventeenth Judicial Circuit.

(7) Twenty-fourth Judicial Circuit.

(8) Twenty-fifth Judicial Circuit.

(9) Twenty-seventh Judicial Circuit.

(10) Thirty-second Judicial Circuit.

(11) Thirty-fifth Judicial Circuit.

(12) *Forty-first Judicial Circuit.*

(13) Forty-eighth Judicial Circuit.

HB 545, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:

(1) First judicial district.

(2) Second judicial district.

(3) Third judicial district.

(4) Fourth judicial district.

(5) Eighth judicial district.

(6) Ninth judicial district.

(7) Eleventh judicial district.

(8) Twelfth judicial district.

(9) Thirteenth judicial district.

(10) Fourteenth judicial district.

(11) Fifteenth judicial district.

(12) Eighteenth judicial district.

(13) Twenty-first judicial district.

(14) Twenty-fourth judicial district.

(15) Twenty-seventh judicial district.

(16) Twenty-eighth judicial district.

(17) Twenty-ninth judicial district.

(18) Thirty-second judicial district.

(19) Thirty-fourth judicial district.

(20) Thirty-fifth judicial district.

(21) Thirty-eighth judicial district.

(22) Fortieth judicial district.

(23) Forty-first judicial district.

(24) Forty-sixth judicial district.

(25) Forty-eighth judicial district.

(26) Fiftieth judicial district.

(27) Fifty-first judicial district.

(28) Fifty-third judicial district.

(29) Fifty-fourth judicial district.

(30) *Fifty-fifth judicial district.*

(31) Fifty-sixth judicial district.

HB 622, AN ACT relating to releases of liens on real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

(1) A holder of a lien on real property shall release the lien in the county clerk's office where the lien is recorded within *thirty (30)* [~~sixty (60)~~] days from the date of satisfaction.

(2) A proceeding may be filed in circuit court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.

(3) Upon proof of satisfaction of the lien being introduced, the court may enter a judgment releasing the lien. *A lienholder that violates subsection (1) of this section shall also be liable to the owner of the real property for fifty dollars ($50.00) and in addition for any loss caused to such owner of real property by such violation.* The judgment shall be with costs including reasonable attorneys' fees.

The Committee Amendment No. 1 to HB 622 is as follows:

Amend printed copy of HB 622:

On page 1, line 15, delete "*in addition for*" and insert in lieu thereof "*any actual expense including a reasonable attorney's fee incurred by the owner in securing the release*"; and

on page 1, line 16, delete "*any loss caused to such owner.*"

SB 28, AN ACT relating to commercial transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.1-105 is amended to read as follows:

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of the laws rules) so specified:

Rights of creditors against sold goods. KRS 355.2-402.

Applicability of the Article on Bank Deposits and Collections. KRS 355.4-102.

Bulk transfers subject to the Article on Bulk Transfers. KRS 355.6-102.

Applicability of the Article on Investment Securities. KRS 355.8-106.

Perfection provision [~~Policy and scope~~] of the Article on Secured Transactions. KRS [~~355.9-102 and~~] 355.9-103.

Section 2. KRS 355.1-201 is amended to read as follows:

Subject to additional definitions contained in the subsequent Articles of this chapter which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (KRS 355.1-205 and 355.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (KRS 355.1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or *certificated* security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. *All persons who sell minerals or the like, including but not limited to oil and gas, at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind.* "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or *certificated* securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or *a certificated* [~~an~~] investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(a) He has actual knowledge of it; or

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) It comes to his attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (See KRS 355.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding

shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts *or*[~~,~~] chattel paper[~~, or contract rights~~] which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under KRS 355.2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (KRS 355.2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value", except as otherwise provided with respect to negotiable instruments and bank collections (KRS 355.3-303, 355.4-208 and 355.4-209) a person gives "value" for rights if he acquires them

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) As security for or in total or partial satisfaction of a pre-existing claim; or

(c) By accepting delivery pursuant to a pre-existing contract for purchase; or

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

SECTION 3. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

An obligation may be issued as subordinated to payment of another obligation of the person obligated, or a creditor may subordinate his right to payment of an obligation by agreement with either the person obligated or another creditor of the person obligated. Such a subordination does not create a security interest as against either the common debtor or a subordinated creditor. This section shall be construed as declaring the law as it existed prior to the enactment of this section and not as modifying it.

Section 4. KRS 355.2-107 is amended to read as follows:

(1) A contract for the sale of [~~timber,~~] minerals or the like or a structure or its materials to be removed from

realty is a contract for the sale of goods within this Article if they are to be severed by the seller, but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) *or of timber to be cut* is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale.

Section 5. KRS 355.2-702 is amended to read as follows:

(1) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (KRS 355.2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser [~~or lien creditor~~] under this Article (KRS 355.2-403). Successful reclamation of goods excludes all other remedies with respect to them.

Section 6. KRS 355.3-501 is amended to read as follows:

(1) Unless excused (KRS 355.3-511) presentment is necessary to charge secondary parties as follows:

(a) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any other draft payable at a stated date;

(b) presentment for payment is necessary to charge any indorser;

(c) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for payment is necessary, but failure to make presentment discharges such drawer, acceptor or maker only as stated in KRS 355.3-502 (1) (b).

(2) Unless excused (KRS 355.3-511)

(a) notice of any dishonor is necessary to charge any indorser;

(b) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such notice discharges such drawer, acceptor or maker only as stated in KRS 355.3-502 (1) (b).

(3) Unless excused (KRS 355.3-511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states, [~~and~~] territories, *dependencies and possessions* of the United States, [~~and~~] the District of Columbia *and the Commonwealth of Puerto Rico.* The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

(4) Notwithstanding any provision of this section, neither presentment nor notice of dishonor nor protest is necessary to charge an indorser who has indorsed an instrument after maturity.

Section 7. KRS 355.5-114 is amended to read as follows:

(1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (KRS 355.7-507) or of a *certificated* security (KRS 355.8-306) or is forged or fraudulent or there is fraud in the transaction

(a) The issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (KRS 355.3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (KRS 355.7-502) or a bona fide purchaser of a *certified* security (KRS 355.8-302); and

(b) In all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

Section 8. KRS 355.5-116 is amended to read as follows:

(1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his rights to proceeds. Such an assignment is an assignment of *an account* [~~a contract right~~] under Article 9 on Secured Transactions and is governed by that Article except that*:*

(a) The assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and

(b) The issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) After what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit.

Section 9. KRS 355.7-209 is amended to read as follows:

(1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have

been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by the Article on Secured Transactions (Article 9).

(3) *(a)* A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under KRS 355.7-503.

(b) A warehouseman's lien on household goods for charges and expenses in relation to the goods under subsection (1) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. "Household goods" means furniture, furnishings and personal effects used by the depositor in a dwelling.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

Section 10. KRS 355.8-102 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) *A "certificated security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is:*

1. Represented by an instrument issued in bearer or registered form;

2. Of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

3. Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(b) An "uncertificated security" is a share, participation or other interest in property or an enterprise of the issuer or an obligation of the issuer which is:

1. Not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

2. Of a type commonly dealt in on securities exchanges or markets; and

3. Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations [~~A "security" is an instrument which:~~

~~1. Is issued in bearer or registered form; and~~

~~2. Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and~~

~~3. Is either one of a class or series or by its terms is divisible into a class or series of instruments; and~~

~~4. Evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer~~].

(c)[~~(b)~~] *A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certificated security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires.* A writing *that* [~~which~~] is a *certificated* security is

governed by this article and not by *Article 3* [~~Uniform Commercial Code-Commercial Paper~~] even though it also meets the requirements of that article. This article does not apply to money. *If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this article.*

(d)[~~(c)~~] A *certificated* security is in "registered form" *if:* [~~when~~]

1. It specifies a person entitled to the security or to the rights it *represents,* [~~evidences~~] and [~~when:~~]

2. Its transfer may be registered upon books maintained for that purpose by or on behalf of *the* [~~an~~] issuer, or the security so states.

(e)[~~(d)~~] A *certificated* security is in "bearer form" *if* [~~when~~] it runs to bearer according to its terms and not by reason of any indorsement.

(2) A "subsequent purchaser" is a person who takes other than by original issue.

(3) A "clearing corporation" is a corporation *registered as a "clearing agency" under the federal securities laws or a corporation:*

(a) At least ninety percent of *whose* [~~the~~] capital stock [~~of which~~] is held by or for one or more *organizations, none of which, other than a national securities exchange or association, holds in excess of twenty percent (20%) of the capital stock of the corporation, and* [~~persons (other than individuals),~~] each of *which is* [~~whom~~]:

1. [~~Is~~] Subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, [~~or~~]

2. [~~Is~~] A broker or dealer or investment company registered under the *federal securities laws* [~~Securities Exchange Act of 1934 or the Investment Company Act of 1940~~], or

3. [~~Is~~] A national securities exchange or association registered under *the federal securities laws;* [~~a statute of the United States such as the Securities Exchange Act of 1934,~~] and

[~~4. None of whom, other than a national securities exchange or association, holds in excess of twenty percent of the capital stock of such corporation; and~~]

(b) Any remaining capital stock of which is held by individuals who have purchased *it* [~~such capital stock~~] at or prior to the time of their taking office as directors of *the* [~~such~~] corporation and who have purchased only so much of *the* [~~such~~] capital stock as *is* [~~may be~~] necessary to permit them to qualify as [~~such~~] directors.

(4) A "custodian bank" is *a* [~~any~~] bank or trust company *that* [~~which~~] is supervised and examined by state or federal authority having supervision over banks and [~~which~~] is acting as custodian for a clearing corporation.

(5) Other definitions applying to this article or to specified parts thereof and the sections in which they appear are:

(a) "Adverse claim," KRS *355.8-302* [~~355.8-301~~];

(b) "Bona fide purchaser," KRS 355.8-302;

(c) "Broker," KRS 355.8-303;

(d) "Debtor," KRS 355.9-105;

(e) "Financial intermediary," KRS 355.8-313;

(f) "Guarantee of the signature," KRS 355.8-402;

(g) "Initial transaction statement," KRS 355.8-408;

(h) "Instruction," KRS 355.8-308;

(i)[~~(e)~~] "Intermediary bank," KRS 355.4-105;

(j)[~~(f)~~] "Issuer," KRS 355.8-201;

(k)[~~(g)~~] "Overissue," KRS 355.8-104.

(l) "Secured party," KRS 355.9-105;

(m) "Security agreement," KRS 355.9-105;

(6) In addition Article *1* [~~I~~] contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 11. KRS 355.8-103 is amended to read as follows:

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if*:*

(1) The security is certificated and the right of the issuer to *the* [~~such~~] lien is noted conspicuously *thereon; or,*

(2) The security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee [~~on the security~~].

Section 12. KRS 355.8-104 is amended to read as follows:

(1) The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but *if:*

(a) [~~if~~] An identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase *the* [~~and deliver such a~~] security *for* [~~to~~] him *and either to deliver a certificated security or to register the transfer of an uncertificated security to him* against surrender of *any certificated* [~~the~~] security[~~, if any, which~~] he holds; or

(b) [~~if~~] A security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount [~~which~~] the issuer has corporate power to issue.

Section 13. KRS 355.8-105 is amended to read as follows:

(1) *Certificated* securities governed by this article are negotiable instruments.

(2) Statements (KRS 355.8-408), notices, or the like, sent by the issuer of uncertificated securities and instructions (KRS 355.8-308) are neither negotiable instruments nor certificated securities.

(3) In any action on a security*:*

(a) Unless specifically denied in the pleadings, each signature on *a certificated* [~~the~~] security, [~~or~~] in a necessary indorsement, *on an initial transaction statement, or on an instruction,* is admitted;

(b) *If* [~~When~~] the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;

(c) *If* [~~When~~] signatures *on a certificated security* are admitted or established, production of the *security* [~~instrument~~] entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; [~~and~~]

(d) *If signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and*

(e) After it is shown that a defense or defect exists, the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (KRS 355.8-202).

Section 14. KRS 355.8-106 is amended to read as follows:

The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, *the effectiveness of registration by the issuer,* and the rights and duties of the issuer with respect to*:*

(1) Registration of transfer *of a certificated security;* [~~are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer.~~]

(2) Registration of transfer, pledge, or release of an uncertificated security; and

(3) Sending of statements of uncertificated securities.

Section 15. KRS 355.8-107 is amended to read as follows:

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to *transfer* [~~deliver~~] securities may *transfer* [~~deliver~~] any *certificated* security of the specified issue in bearer form or registered in the name of the transferee, or indorsed to him or in blank, *or he may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.*

(2) *If* [~~When~~] the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price *of:*

(a) *Certificated* [~~Of~~] securities accepted by the buyer; [~~and~~]

(b) *Uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and*

(c) [~~Of~~] Other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

SECTION 16. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by him. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this article are terminated by the registration of release.

Section 17. KRS 355.8-201 is amended to read as follows:

(1) With respect to obligations on or defenses to a security, "issuer" includes a person who*:*

(a) Places or authorizes the placing of his name on a *certificated* security (otherwise than as authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in his property or in an enterprise or to evidence his duty to perform an obligation *represented* [~~evidenced~~] by the *certificated* security; [~~or~~]

(b) *Creates shares, participations or other interests in his property or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;*

(c) Directly or indirectly creates fractional interests in his rights or property, which fractional interests are *represented* [~~evidenced~~] by *certificated* securities; or

(d)[~~(c)~~] Becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of his guaranty, whether or not his obligation is noted on *a certificated* [~~the~~] security *or on statements of uncertificated securities sent pursuant to KRS 355.8-408.*

(3) With respect to registration of transfer, *pledge or release* (Part 4 of this article) "issuer" means a person on whose behalf transfer books are maintained.

Section 18. KRS 355.8-202 is amended to read as follows:

(1) Even against a purchaser for value and without notice, the terms of a security include*:*

(a) If the security is certificated, those stated on the security;

(b) If the security is uncertificated, those contained in the initial transaction statement sent to such purchaser, or if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and

(c) Those made part of the security by reference *on the certificated security or in the initial transaction statement,* to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms [~~so~~] referred to do not conflict with the [~~stated~~] terms *stated on the certificated security or contained in the statement.* [~~Such~~] A reference *under this paragraph* does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the *certificated* security *or statement* expressly states that a person accepting it admits [~~such~~] notice.

(2) [~~(a)~~] A *certificated* security *in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value,* other than *a security* [~~one~~] issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid *with respect to the* [~~in the hands of a~~] purchaser *if he is* [~~for value and~~] without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid *with respect to* [~~in the hands of~~] a subsequent purchaser for value and without notice of the defect. *This subsection* [~~The rule of paragraph (a)~~] applies to an issuer *that* [~~which~~] is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as [~~otherwise~~] provided in the case of certain unauthorized signatures [~~on issue~~] (KRS 355.8-205), lack of genuineness of a *certificated* security *or an initial transaction statement* is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer *of a certificated or uncertificated security,* including nondelivery and conditional delivery of *a certificated* [~~the~~] security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security *that* [~~which~~] is the subject of the contract or in the plan or arrangement pursuant to which *the* [~~such~~] security is to be issued or distributed.

Section 19. KRS 355.8-203 is amended to read as follows:

(1) After an act or event *creating* [~~which creates~~] a right to immediate performance of the principal obligation *represented* [~~evidenced~~] by *a certificated* [~~the~~] security or *that* [~~which~~] sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer *if:*

(a) [~~if~~] The act or event is one requiring the payment of money, [~~or~~] the delivery of *certificated* securities, *the registration of transfer of uncertificated securities,* or *any of these* [~~both~~] on presentation or surrender of the *certificated* security, *the* [~~and such~~] funds or securities are available on the date set for payment or exchange, and he takes the security more than one year after that date; and

(b) [~~if~~] The act or event is not covered by paragraph (a) and he takes the security more than two years after the date set for surrender or presentation or the date on which [~~such~~] performance became due.

(2) A call *that* [~~which~~] has been revoked is not within subsection (1).

Section 20. KRS 355.8-204 is amended to read as follows:

[~~Unless noted conspicuously on the security~~] A restriction on transfer *of a security* imposed by the issuer, even though otherwise lawful, is ineffective [~~except~~] against *any* [~~a~~] person *without* [~~with~~] actual knowledge of it *unless:*

(a) The security is certificated and the restriction is noted conspicuously thereon; or

(b) The security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person, or if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

Section 21. KRS 355.8-205 is amended to read as follows:

(1) An unauthorized signature placed on a *certificated* security prior to or in the course of issue *or placed on an initial transaction statement* is ineffective, *but* [~~except that~~] the signature is effective in favor of a purchaser for value *of the certificated security or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent, if the purchaser is* [~~and~~] without notice of the lack of authority *and* [~~if~~] the signing has been done by*:*

(a) An authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security, [~~or~~] of similar securities, *or of initial transaction statements* or *the* [~~their~~] immediate preparation for signing *of any of them*; or

(b) An employe of the issuer, or of any of the foregoing, entrusted with responsible handling of the security *or initial transaction statement.*

Section 22. KRS 355.8-206 is amended to read as follows:

(1) *If* [~~Where~~] a *certificated* security contains the signatures necessary to its issue or transfer but is incomplete in any other respect*:*

(a) Any person may complete it by filling in the blanks as authorized; and

(b) Even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of *the* [~~such~~] incorrectness.

(2) A complete *certificated* security *that* [~~which~~] has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

(3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:

(a) Any person may complete it by filling in the blanks as authorized; and

(b) Even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if he purchased the security referred to therein for value and without notice of the incorrectness.

(4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

Section 23. KRS 355.8-207 is amended to read as follows:

(1) Prior to due presentment for registration of transfer of a *certificated* security in registered form, the

issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) *Subject to the provisions of subsections (3), (4), and (6) of this section, the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.*

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

(a) Register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;

(b) Register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or

(c) Register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

(5) Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) of this section or by registration of release and pledge under subsection (4)(c) of this section, if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge:

(a) Any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;

(b) Any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

(c) Any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

(7) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

Section 24. KRS 355.8-208 is amended to read as follows:

(1) A person placing his signature upon a *certificated* security *or an initial transaction statement* as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value *of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is* without notice of the particular defect, that:

(a) The *certificated* security *or initial transaction statement* is genuine; [~~and~~]

(b) His own participation in the issue *or registration of the transfer, pledge or release* of the security is within his capacity and within the scope of the *authority* [~~authorization~~] received by him from the issuer; and

(c) He has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects.

Section 25. The title of Part 3 of KRS Chapter 355.8 is amended to read as follows:

Part 3. *Transfer* [~~Purchase~~]

Section 26. KRS 355.8-301 is amended to read as follows:

(1) Upon *transfer* [~~delivery~~] of a security *to a purchaser (KRS 355.8-313)* the purchaser acquires the rights in the security which his transferor had or had actual authority to convey *unless the purchaser's rights are limited by KRS 355.8-302(4)* [~~except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular person is the owner of or has an interest in the security~~].

(2) [~~A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.~~

~~(3)~~] A *transferee* [~~purchaser~~] of a limited interest acquires rights only to the extent of the interest *transferred* [~~purchased~~]. *The creation or release of a security interest in a security is the transfer of a limited interest in that security.*

Section 27. KRS 355.8-302 is amended to read as follows:

(1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim*:*

(a) Who takes delivery of a *certificated* security in bearer form or [~~of one~~] in registered form, issued [~~to him~~] or indorsed to him or in blank*;*

(b) To whom the transfer, pledge or release of an uncertificated security is registered on the books of the issuer; or

(c) To whom a security is transferred under the provisions of paragraph (c), (d)(i), or (g) of KRS 355.8-313(1).

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (KRS 355.8-301) also acquires his interest in the security free of any adverse claim.

(4) Notwithstanding KRS 355.8-301(1), the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve his position by taking from a bona fide purchaser.

Section 28. KRS 355.8-304 is amended to read as follows:

(1) A purchaser (including a broker for the seller or buyer but excluding an intermediary bank) of a *certificated* security is charged with notice of adverse claims if*:*

(a) The security, whether in bearer or registered form, has been *indorsed* [~~endorsed~~] "for collection" of "for surrender" or for some other purpose not involving transfer; or

(b) The security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) *A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under KRS 355.8-403(4) at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.*

(3) The fact that the purchaser (including a broker for the seller or buyer) *of a certificated or uncertificated*

security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute *constructive* notice of adverse claims. [~~If,~~] However, *if* the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or [~~that~~] the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

Section 29. KRS 355.8-305 is amended to read as follows:

(1) An act or event *that* [~~which~~] creates a right to immediate performance of the principal obligation *represented* [~~evidenced~~] by *a certificated* [~~the~~] security or [~~which~~] sets a date on or after which *a certificated* [~~the~~] security is to be presented or surrendered for redemption or exchange does not [~~of~~] itself constitute any notice of adverse claims except in the case of a *transfer:* [~~purchase~~]

(a) After one year from any date set for [~~such~~] presentment or surrender for redemption or exchange; or

(b) After six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

Section 30. KRS 355.8-306 is amended to read as follows:

(1) A person who presents a *certificated* security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange. But, a purchaser for value *and* without notice of adverse claims who receives a new, reissued or re-registered *certificated* security *on* [~~or~~] registration of transfer *or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to him* warrants only that he has no knowledge of any unauthorized signature (KRS 355.8-311) in a necessary indorsement.

(2) A person by transferring a *certificated* security to a purchaser for value warrants only that:

(a) His transfer is effective and rightful; [~~and~~]

(b) The security is genuine and has not been materially altered; and

(c) He knows *of* no fact which might impair the validity of the security.

(3) *If* [~~Where~~] a *certificated* security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against [~~such~~] delivery, the intermediary by [~~such~~] delivery warrants only his own good faith and authority, even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers *a certificated* [~~the~~] security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3).

(5) *A person who originates an instruction warrants to the issuer that:*

(a) He is an appropriate person to originate the instruction; and

(b) At the time the instruction is presented to the issuer he will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing his signature (KRS 355.8-312(3) that:

(a) He is an appropriate person to originate the instruction; and

(b) At the time the instruction is presented to the issuer:

1. He will be entitled to the registration of transfer, pledge, or release; and

2. The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (KRS 355.8-312(6) that:

(a) He is an appropriate person to originate the instruction;

(b) The uncertificated security referred to therein is valid; and

(c) At the time the instruction is presented to the issuer:

1. The transferor will be entitled to the registration of transfer, pledge, or release;

2. The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and

3. The requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that he is an appropriate person to originate the instruction and at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b), (c)2. and (c)3. of subsection (7) of this section.

(9) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that:

(a) His transfer is effective and rightful; and

(b) The uncertificated security is valid.

(10) A broker gives to his customer and to the issuer and a purchaser the *applicable* warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer.

Section 31. KRS 355.8-307 is amended to read as follows:

If [~~Where~~] a *certificated* security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied;[~~,~~] but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

Section 32. KRS 355.8-308 is amended to read as follows:

(1) An indorsement of a *certificated* security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or *his* [~~when the~~] signature [~~of such person~~] is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies [~~the person~~] to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) *An indorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.*

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

(a) A writing signed by an appropriate person; or

(b) A communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate person" in subsection (1) means

[~~(a)~~] the person specified by the *certificated* security or by special indorsement to be entitled to the security.[~~; or~~]

(7) "An appropriate person" in subsection (5) of this section means:

(a) For an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

(b) For an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7) of this section, "an appropriate person" in subsections (1) and (5) includes:

(a) If [~~(b) where~~] the person *designated* [~~so specified~~] is described as a fiduciary but is no longer serving in the described capacity, [—] either that person or his successor; [~~or~~]

(b) If [~~(c) where~~] the *persons designated are described as* [~~security or indorsement so specifies~~] more than one person as fiduciaries and one or more are no longer serving in the described capacity, [—] the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; [~~or~~]

(c) If [~~(d) where~~] the person *designated* [~~so specified~~] is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, [—] his executor, administrator, guardian, or like fiduciary; [~~or~~]

(d) If [~~(e) where~~] the *persons designated are described as* [~~security or indorsement so specifies~~] more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, [—] the survivor or survivors; [~~or~~]

(e)[~~(f)~~] A person having power to sign under applicable law or controlling instrument; *and* [~~or~~]

(f)[~~(g)~~] To the extent that *the person designated or* any of the foregoing persons may act through an agent, [—] his authorized agent.

(9)[~~(4)~~] Unless otherwise agreed, the indorser *of a certificated security* by his indorsement *or the originator of an instruction by his origination* assumes no obligation that the security will be honored by the issuer *but only the obligations provided in KRS 355.8-306.*

[~~(5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.~~]

(10)[~~(6)~~] Whether the person signing is appropriate is determined as of the date of signing and an indorsement *made by or an instruction originated* by *him* [~~such a person~~] does not become unauthorized for the purposes of this article by virtue of any subsequent change of circumstances.

(11)[~~(7)~~] Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of

the transfer, *pledge, or release,* does not render his indorsement *or an instruction originated by him* unauthorized for the purposes of this article.

Section 33. KRS 355.8-309 is amended to read as follows:

An indorsement of a *certificated* security, whether special or in blank, does not constitute a transfer until delivery of the *certificated* security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the *certificated* security.

Section 34. KRS 355.8-310 is amended to read as follows:

An indorsement of a *certificated* security in bearer form may give notice of adverse claims (KRS 355.8-304) but does not otherwise affect any right to registration the holder *possesses* [~~may possess~~].

Section 35. KRS 355.8-311 is amended to read as follows:

[~~(1)~~] Unless the owner *or pledgee* has ratified an unauthorized indorsement *or instruction* or is otherwise precluded from asserting its ineffectiveness:

(1)[~~(a)~~] He may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or re-registered *certificated* security on registration of transfer *or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to him*; and

(2)[~~(b)~~] An issuer who registers the transfer of a *certificated* security upon the unauthorized indorsement *or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction* is subject to liability for improper registration (KRS 355.8-404).

Section 36. KRS 355.8-312 is amended to read as follows:

(1) Any person guaranteeing a signature of an indorser of a *certificated* security warrants that at the time of signing*:*

(a) The signature was genuine; [~~and~~]

(b) The signer was an appropriate person to indorse (KRS 355.8-308); and

(c) The signer had legal capacity to sign.

(2) Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

(a) The signature was genuine;

(b) The signer was an appropriate person to originate the instruction (KRS 355.8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of such security, as to which fact the signature guarantor makes no warranty;

(c) The signer had legal capacity to sign; and

(d) The taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subsection (2)) but also warrants that at the time the instruction is presented to the issuer:

(a) The person specified in the instruction as registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and

(b) The transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) [~~But~~] The guarantor *under subsection (1) and (2) or the special guarantor under subsection (3)* does not otherwise warrant the rightfulness of the particular transfer, *pledge or release.*

(5)[~~(2)~~] Any person *guaranteeing* [~~may guarantee~~] an indorsement of a *certificated* security *makes not only the warranties of a signature guarantor under subsection (1)* [~~and by so doing warrants not only the signature (subsection (1))~~] but also *warrants* the rightfulness of the particular transfer in all respects. [~~But no issuer may require a guarantee of indorsement as a condition to registration of transfer~~].

(6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee or signature (subsection (3)), a guarantee of indorsement (subsection (5)), or a guarantee of instruction (subsection (6)) as a condition to registration of transfer, pledge or release.

(8)[~~(3)~~] The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to *the* [~~such~~] person for any loss resulting from breach of the warranties.

Section 37. KRS 355.8-313 is amended to read as follows:

(1) *Transfer of a security or a limited interest (including a security interest) therein* [~~Delivery~~] to a purchaser occurs *only:* [~~when~~]

(a) *At the time* he or a person designated by him acquires possession of a *certificated* security; [~~or~~]

(b) At the time the transfer, pledge, or release of an uncertificated security is registered to him or a person designated by him;

(c)[~~(b)~~] *At the time* his *financial intermediary* [~~broker~~] acquires possession of a *certificated* security specially indorsed to or issued in the name of the purchaser; [~~or~~]

(d)[~~(c)~~] *At the time a financial intermediary, not a clearing corporation,* [~~his broker~~] sends him confirmation of the purchase and also by book entry or otherwise identifies [~~a specific security in the broker's possession~~] as belonging to the purchaser*:*[~~; or~~]

1. A specific certificated security in the financial intermediary's possession;

2. A quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary; or

3. A quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;

(e)[~~(d)~~] With respect to an identified *certificated* security to be delivered while still in the possession of a third person, *not a financial intermediary, at the time* [~~when~~] that person acknowledges that he holds for the purchaser; [~~or~~]

(f) With respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(g)[(e)] *At the time* appropriate entries *to the account of the purchaser or a person designated by him* on the books of a clearing corporation are made under KRS 355.8-320*;*[~~.~~]

(h) With respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by:

1. A financial intermediary on whose books the interest of the transferor in the security appears;

2. A third person, not a financial intermediary, in possession of the security, if it is certificated;

3. A third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or

4. A third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;

(i) With respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party; or

(j) With respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraphs (a), (b), (c), (d), or (g) of this subsection, at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) The purchaser is the owner of a security held for him by *a financial intermediary* [~~his broker~~], but *cannot be a bonafide purchaser of a security so held* [~~is not the holder~~] except *in the circumstances* [~~as~~] specified in *paragraphs* [~~subparagraphs (b),~~] (c), *(d)1.* and *(g)* [~~(e)~~] of subsection (1). *If* [~~Where~~] a security *so held* is part of a fungible bulk, *as in the circumstances specified in paragraphs (d)2. and (d)3. of subsection (1),* the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the *financial intermediary* [~~broker~~] or by the purchaser after the *financial intermediary* [~~broker~~] takes delivery *of a certificated security* as a holder for value *or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value* is not effective either as to the *financial intermediary* [~~broker~~] or as to the purchaser. However, as between the *financial intermediary* [~~broker~~] and the purchaser the purchaser may demand *transfer* [~~delivery~~] of [~~an~~] equivalent security as to which no notice of [~~an~~] adverse claim has been received.

(4) A "financial intermediary" is a bank, broker, clearing corporation or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

Section 38. KRS 355.8-314 is amended to read as follows:

(1) Unless otherwise agreed *if* [~~where~~] a sale of a security is made on an exchange or otherwise through brokers*:*

(a) The selling customer fulfills his duty to *transfer at the time* [~~deliver when~~] he*:*

1. Places [~~such~~] a *certificated* security in the possession of the selling broker or of a person designated by the broker*;* [~~or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and~~]

2. Causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker;

3. If requested, causes an acknowledgement to be made to the selling broker that a certificated or uncertificated security is held for the broker; or

4. Places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty (30) days thereafter; and

(b) The selling broker, including a correspondent broker acting for a selling customer, fulfills his duty to *transfer at the time he:*

1. Places a certificated [~~deliver by placing the~~] security [~~or a like security~~] in the possession of the buying broker or a person designated by *the buying broker:*

2. Causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;

3. Places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty (30) days thereafter; or

4. Effects [~~him or by effecting~~] clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as [~~otherwise~~] provided in this section and unless otherwise agreed, a transferor's duty to *transfer* [~~deliver~~] a security under a contract of purchase is not fulfilled until he:

(a) Places *a certificated* [~~the~~] security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by *the purchaser;*

(b) Causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or

(c) If the purchaser requests, causes an acknowledgement to be made to the purchaser that a certificated or uncertificated security is held for the purchaser [~~him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him~~].

(3) Unless made on an exchange, a sale to a broker purchasing for his own account is within [~~this~~] subsection *(2)* and not within subsection (1).

Section 39. KRS 355.8-315 is amended to read as follows:

(1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, *as* [~~may~~] against anyone except a bona fide purchaser, *may:*

(a) Reclaim possession of the *certificated* security *wrongfully transferred;* [~~or~~]

(b) Obtain possession of any *certificated* new security *representing* [~~evidencing~~] all or part of the same rights;

(c) Compel the origination of an instruction to transfer to him or a person designated by him an uncertificated security constituting all or part of the same rights; or

(d) Have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement *of a certificated security,* the owner may also reclaim or obtain possession of the security or *a* new *certificated* security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this Article on unauthorized indorsements (KRS 355.8-311).

(3) The right to obtain or reclaim possession of a *certificated* security *or to compel the origination of a transfer instruction* may be specifically enforced and *the* [~~its~~] transfer *of a certificated or uncertificated security* enjoined and *a certificated* [~~the~~] security impounded pending the litigation.

Section 40. KRS 355.8-316 is amended to read as follows:

Unless otherwise agreed the transferor *of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security* [~~must~~] on due demand *must* supply his purchaser with any proof of his authority to transfer, *pledge, or release* or with any other requisite [~~which may be~~] necessary to obtain registration of the transfer, *pledge, or release* of the security*;* but if the transfer, *pledge, or release* is not for value, a transferor, *pledgor, or pledgee* need not do so unless the purchaser furnishes the necessary expenses. Failure *within a reasonable time* to comply with a demand made [~~within a reasonable time~~] gives the purchaser the right to reject or rescind the transfer, *pledge, or release.*

Section 41. KRS 355.8-317 is amended to read as follows:

(1) *Subject to the exceptions in subsections (3) and (4),* no attachment or levy upon a *certificated* security or any share or other interest *represented* [~~evidenced~~] thereby which is outstanding *is* [~~shall be~~] valid until the security is actually seized by the officer making the attachment or levy, but a *certificated* security which has been surrendered to the issuer may be *reached by a creditor by legal process at the issuer's chief executive office in the United States or at its registered office in Kentucky* [~~attached or levied upon at the source~~].

(2) An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States or at its registered office in Kentucky.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) Unless other provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection (3) or (4) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

(6)[~~(2)~~] A creditor whose debtor is the owner of a security *is* [~~shall be~~] entitled to [~~such~~] aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching *the* [~~such~~] security or in satisfying the claim by means [~~thereof as is~~] allowed at law or in equity in regard to property *that* [~~which~~] cannot readily be *reached* [~~attached or levied upon~~] by ordinary legal process.

Section 42. KRS 355.8-318 is amended to read as follows:

An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling, or otherwise dealing with securities) has received *certificated* securities and sold, pledged, or delivered them *or has sold or caused the transfer or pledge of uncertificated securities over which he had control* according to the instructions of his principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right *so* to *deal with the securities* [~~dispose of them~~].

Section 43. KRS 355.8-319 is amended to read as follows:

(1) A contract for the sale of securities is not enforceable by way of action or defense unless

(a) There is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; [~~or~~]

(b) Delivery of *a certificated* [~~the~~] security *or transfer instruction* has been accepted, *or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within ten (10) days after receipt of the initial transaction statement confirming the registration,* or payment has been made, but the contract is enforceable under this provision only to the extent of *the* [~~such~~] delivery, *registration* or payment; [~~or~~]

(c) Within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or

(d) The party against whom enforcement is sought admits in his pleading, testimony, or otherwise in court that a contract was made for *the* sale of a stated quantity of described securities at a defined or stated price.

Section 44. KRS 355.8-320 is amended to read as follows:

(1) *In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferee, pledgor, or pledgee by the amount of the obligation, or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and*

(a) If *certificated,* [~~a security~~]

1.[~~(a)~~] Is in the custody of *the* [~~a~~] clearing corporation, *another clearing corporation,* [~~or of~~] a custodian bank or a nominee of *any of them* [~~either subject to the instructions of the clearing corporation~~]; and

2.[~~(b)~~] Is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation, *a* [~~or~~] custodian bank, or a nominee of *any of them; or* [~~either; and~~]

(b) If uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

[~~(c) is shown on the account of a transferor or pledgor on the books of the clearing corporation; then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.~~]

(2) Under this section entries may be *made* with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers, [~~or~~] pledges, *or releases* of the same security.

(3) A transfer [~~or pledge~~] under this section *is effective (KRS 355.8-313) and the purchaser acquires the rights of the transferor (KRS 355.8-301). A pledge or release under this section is the transfer of a limited interest* [~~has the effect of a delivery of a security in bearer form or duly indorsed in blank (KRS 355.8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged~~]. If a pledge or the creation of a security interest is intended, *the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (KRS 355.8-321)* [~~the making of entries has the effect of a taking of delivery by the pledgee or a secured party (KRS 355.9-304 and 355.9-305)~~]. A transferee or pledgee under this section *may be a bona fide purchaser (KRS 355.8-302)* [~~is a holder~~].

(4) A transfer or pledge under this section *is* [~~does~~] not [~~constitute~~] a registration of transfer under Part 4 [~~of this article~~].

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries *or* [~~nor~~] the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

SECTION 45. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by him pursuant to a provision of KRS 355.8-313(1).

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred

solely under paragraph (1) of KRS 355.8-313(1) becomes unperfected after twenty-one (21) days unless, within that time, the requirements for transfer under any other provision of KRS 355.8-313(1) are satisfied.

(3) A security interest in a security is subject to the provisions of article 9, but:

(a) No filing is required to perfect the security interest; and

(b) No written security agreement signed by the debtor is necessary to make the security interest enforceable, except as otherwise provided in paragraph (h), (i), or (j) of KRS 355.8-313(1). The secured party has the rights and duties provided under KRS 355.9-207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his possession.

(4) Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by him pursuant to a provision of KRS 355.8-313(1). If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after twenty-one (21) days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him pursuant to a provision of KRS 355.8-313(1).

Section 46. KRS 355.8-401 is amended to read as follows:

(1) *If* [~~Where~~] a *certificated* security in registered form is presented to the issuer with a request to register transfer *or an instruction is presented to the issuer with a request to register transfer, pledge, or release*, the issuer *shall* [~~is under a duty to~~] register the transfer, *pledge or release* as requested if*:*

(a) The security is indorsed *or the instruction was originated* by the appropriate person or persons (KRS 355.8-308); [~~and~~]

(b) Reasonable assurance is given that those indorsements *or instructions* are genuine and effective (KRS 355.8-402); [~~and~~]

(c) The issuer has no duty *as to* [~~inquire into~~] adverse claims or has discharged *the* [~~any such~~] duty (KRS 355.8-403); [~~and~~]

(d) Any applicable law relating to the collection of taxes has been complied with; and

(e) The transfer, *pledge, or release* is in fact rightful or is to a bona fide purchaser.

(2) *If* [~~Where~~] an issuer is under a duty to register a transfer, *pledge, or release* of a security, the issuer is also liable to the person presenting *a certificated security or an instruction* [~~it~~] for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, *pledge, or release.*

Section 47. KRS 355.8-402 is amended to read as follows:

(1) The issuer may require the following assurance that each necessary indorsement *of a certificated security or each instruction* (KRS 355.8-308) is genuine and effective*:*

(a) In all cases, a guarantee of the signature ([~~subsection (1) of~~] KRS 355.8-312*(1) or (2)*) of the person indorsing *a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity*; [~~and~~]

(b) *If* [~~Where~~] the indorsement is *made or the instruction is originated* by an agent, appropriate assurance of authority to sign;

(c) *If* [~~Where~~] the indorsement is *made or the instruction is originated* by a fiduciary, appropriate evidence of appointment or incumbency;

(d) *If* [~~Where~~] there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; *and*

(e) *If* [~~Where~~] the indorsement is *made or the instruction is originated* by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility *if they* [~~provided such standards~~] are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means*:*

(a) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the date of presentation for transfer*, pledge, or release*; or

(b) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of *that* [~~such a~~] document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to *the* [~~such~~] evidence *if they* [~~provided such standards~~] are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection 3 (b), both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer*, pledge, or release.*

Section 48. KRS 355.8-403 is amended to read as follows:

(1) An issuer to whom a *certificated* security is presented for registration *shall* [~~is under a duty to~~] inquire into adverse claims if*:*

(a) A written notification of an adverse claim is received at a time and in a manner *affording* [~~which affords~~] the issuer a reasonable opportunity to act on it prior to the issuance of a new, re-issued, or re-registered *certificated* security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or

(b) The issuer is charged with notice of an adverse claim from a controlling instrument [~~which~~] it has elected to require under subsection (4) of KRS 355.8-402.

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or, if there be no such address, then at his residence or regular place of business that the *certificated* security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either*:*

(a) An appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or

(b) *There is filed with the issuer* an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved[~~,~~] from any loss [~~which~~] it or they may suffer by complying with the adverse claim [~~is filed with the issuer~~].

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under subsection (4) of KRS 355.8-402 or receives notification of an adverse claim under subsection (1), *if* [~~of this section, where~~] a *certificated* security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular*:*

(a) An issuer registering a *certificated* security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) An issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) The issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

(a) Claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(b) Claims of which the issuer has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5) of this section;

(c) Claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to him; and

(d) Claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under KRS 355.8-402(4).

(5) If the issuer of an uncertificated security is under a duty as to an adverse claim, he discharges that duty by:

(a) Including a notation of the claim in any statements sent with respect to the security under KRS 355.8-408(3), (6), and (7); and

(b) Refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(6) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under KRS 355.8-408.

(7) Notwithstanding subsections (4) and (5), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

(a) The claim was embodied in legal process which expressly provides otherwise;

(b) The claim was asserted in a written notification from the registered pledgee;

(c) The claim was one as to which the issuer was charged with notice from a controlling instrument it required under KRS 355.8-402(4) in connection with the pledgee's request for transfer; or

(d) The transfer requested is to the registered owner.

Section 49. KRS 355.8-404 is amended to read as follows:

(1) Except as [~~otherwise~~] provided in any law relating to the collection of taxes, the issuer is not liable to the owner, *pledgee* or any other person suffering loss as a result of the registration of a transfer, *pledge, or release* of a security if:

(a) There were on or with a *certificated* [~~the~~] security the necessary indorsements *or the issuer had received an instruction originated by an appropriate person* (KRS 355.8-308); and

(b) The issuer had no duty *as* to [~~inquire into~~] adverse claims or has discharged *the* [~~any such~~] duty (KRS 355.8-403).

(2) *If* [~~Where~~] an issuer has registered a transfer of a *certificated* security to a person not entitled to it, the issuer on demand *shall* [~~must~~] deliver a like security to the true owner unless*:*

(a) The registration was pursuant to subsection (1); [~~or~~]

(b) The owner is precluded from asserting any claim for registering the transfer under subsection (1) of KRS 355.8-405; or

(c) *The* [~~Such~~] delivery would result in overissue, in which case the issuer's liability is governed by KRS 355.8-104.

(3) If an insurer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

(a) The registration was pursuant to subsection (1); or

(b) The registration would result in overissue, in which case the issuer's liability is governed by KRS 355.8-104.

Section 50. KRS 355.8-405 is amended to read as follows:

(1) *If* [~~Where~~] a *certificated* security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving [~~such a~~] notification, the owner is precluded from asserting against the issuer any claim or registering the transfer under KRS 355.8-404 or any claim to a new security under this section.

(2) *If* [~~Where~~] the owner of a *certificated* security claims that the security has been lost, destroyed, or wrongfully taken, the issuer *shall* [~~must~~] issue a new *certificated* security *or, at the option of the issuer, an equivalent uncertificated security* in place of the original security if the owner*:*

(a) So requests before the issuer has notice that the security has been acquired by a bona fide purchaser; [~~and~~]

(b) Files with the issuer a sufficient indemnity bond; and

(c) Satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of *a* [~~the~~] new *certificated or uncertificated* security, a bona fide purchaser of the original *certificated* security presents it for registration of transfer, the issuer *shall* [~~must~~] register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by KRS 355.8-104. In addition to any rights on the indemnity bond, the issuer may recover the new *certificated* security from the person to whom it was issued or any person taking under him except a bona fide purchaser *or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.*

Section 51. KRS 355.8-406 is amended to read as follows:

(1) *If* [~~Where~~] a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its *certificated* securities *or in the registration of transfers, pledges, and releases of its uncertificated securities* or in the issue of new securities, or in the cancellation of surrendered securities*:*

(a) He is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and

(b) [~~he has~~] With regard to the particular functions he performs, *he has* the same obligation to the holder or owner of *a certificated* [~~the~~] security *or to the owner or pledgee of an uncertificated security* and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other [~~such~~] agent is notice to the issuer with respect to the functions performed by the agent.

SECTION 52. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary indorsements and presentation of a written request by the person surrendering the security, the issuer, if he has no duty as to adverse claims or has discharged the duty (KRS 355.8-403), shall issue to the person or a person designated by him an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

(a) The registered owner, if the uncertificated security was not subject to a registered pledge; or

(b) The registered pledgee, if the uncertificated security was subject to a registered pledge.

SECTION 53. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) Within two (2) business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units transferred;

(c) The name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) The date the transfer was registered.

(2) Within two (2) business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units pledged;

(c) The name and address and any taxpayer identification number of the registered owner and the registered pledgee;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) The date the pledge was registered.

(3) Within two (2) business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units released from pledge;

(c) The name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions or adverse claims; and

(e) The date the release was registered.

(4) An "initial transaction statement" is the statement sent to:

(a) The new registered owner and, if applicable, to the registered pledgee pursuant to subsection (1);

(b) The registered pledgee pursuant to subsection (2); or

(c) The registered owner pursuant to subsection (3).

Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "Initial Transaction Statement."

(5) Within two (2) business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The number of shares or units transferred;

(c) The name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and

(d) The date the transfer was registered.

(6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The name and address and any taxpayer identification number of the registered owner;

(c) The number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;

(d) The name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge; and

(e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request

of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

(a) A description of the issue of which the uncertificated security is a part;

(b) The name and address and any taxpayer identification number of the registered owner;

(c) The name and address and any taxpayer identification number of the registered pledgee;

(d) The number of shares or units subject to the pledge; and

(e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under KRS 355.8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(8) If the issuer sends the statements described in subsections (6) and (7) of this section at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

(9) Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

Section 54. KRS 355.9-102 is amended to read as follows:

(1) Except as otherwise provided [~~in KRS 355.9-103 on multiple state transactions and~~] in KRS 355.9-104 on excluded transactions, this Article applies*:* [~~so far as concerns any personal property and fixtures within the jurisdiction of this State~~]

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, *or* accounts [~~or contract rights~~]; and also

(b) To any sale of accounts[~~, contract rights~~] or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in KRS 355.9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

Section 55. KRS 355.9-103 is amended to read as follows:

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2) of this section, mobile goods described in subsection (3) of this section, and minerals described in subsection (5) of this section.

(b) Except as otherwise provided in this subsection perfection and the effect of perfection or non-perfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one (1) jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or non-perfection of the security interest from the time it attaches until thirty (30) days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by part 3 of this article to perfect the security interest:

1. If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four (4) months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

2. If the action is taken before the expiration of the period specified in subparagraph (1), the security interest continues perfected thereafter;

3. For the purpose of priority over a buyer of consumer goods (subsection(2) of KRS 355.9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (1) and (2).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four (4) months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1) of this section.

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) of this section on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one (1) jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or non-perfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or non-perfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four (4) months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) of this section apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) of this section apply to a non-possessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or non-perfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Uncertificated securities. The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or non-perfection of a security interest in uncertificated securities.

[~~(1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this Article; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.~~

~~(2) If the chief place of business of a debtor is in this state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state.~~

~~(3) If personal property other than that governed by subsections (1) and (2) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.~~

~~(4) Notwithstanding subsections (2) and (3), if personal property is covered by a certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.~~]

Section 56. KRS 355.9-104 is amended to read as follows:

(1) This Article does not apply

(a) To a security interest subject to any statute of the United States [~~such as the Ship Mortgage Act, 1920,~~] to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) To a landlord's lien; or

(c) To a lien given by statute or other rule of law for services or materials except as provided in KRS 355.9-310 on priority of such liens; or

(d) To a transfer of a claim for wages, salary or other compensation of an employe; or

(e) To *a transfer by a government or governmental subdivision or agency* [~~an equipment trust covering railway rolling stock~~]; or

(f) To a sale of accounts[~~, contract rights~~] or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts[~~, contract rights~~] or chattel paper which is for the purpose of collection only, or a transfer of a [~~contract~~] right to *payment under a contract* an assignee who is also to do the performance under the contract *or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness*; or

(g) To a transfer of an interest or claim in or under any policy of insurance, *except as provided with respect to proceeds (KRS 355.9-306) and priorities in proceeds (KRS 355.9-312)*; or

(h) To a right represented by a judgment *(other than a judgment taken on a right to payment which was collateral)*; or

(i) To any right of set-off; or

(j) Except to the extent that provision is made for fixtures in KRS 355.9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) To a transfer in whole or in part of [~~any of the following:~~] any claim arising out of tort*; or* [~~any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization~~]

(l) To a transfer of an interest in any deposit account (subsection (1) of KRS 355.9-105), except as provided with respect to proceeds (KRS 355.9-306) and priorities in proceeds (KRS 355.9-312).

Section 57. KRS 355.9-105 is amended to read as follows:

(1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper[~~, contract right~~] or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods *but a charter or other contract involving the use or hire of a vessel is not chattel paper.* When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts[~~, contract rights~~] and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts[~~, contract rights~~] or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) *“Deposit account” means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;*

(f) “Document” means document of title as defined in the general definitions of Article 1 (KRS 355.1-201) *and a receipt of the kind described in subsection (2) of KRS 355.7-201*;

(g) “Encumbrance” includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h)[~~(f)~~] “Goods” includes all things which are movable at the time the security interest attaches or which are fixtures (KRS 355.9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, *or minerals or the like (including oil and gas) before extraction* [~~contract rights and other things in action~~]. “Goods” also *includes standing timber which is to be cut and removed under a conveyance or contract for sale,* [~~include~~] the unborn young of animals and growing crops;

(i)[~~(g)~~] “Instrument” means a negotiable instrument (defined in KRS 355.3-104), or a *certificated* security (defined in KRS 355.8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) “Mortgage” means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made “pursuant to commitment” if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l)[~~(h)~~] “Security agreement” means an agreement which creates or provides for a security interest;

(m)[~~(i)~~] “Secured party” means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts[~~, contract rights~~] or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this Article and the sections in which they appear are:

“Account,” KRS 355.9-106;

“Attach,” KRS 355.9-203;

“Construction mortgage,” KRS 355.9-313 (1);

“Consumer goods,” KRS 355.9-109 (1);

[~~“Contract right,” KRS 355.9-106;~~]

“Equipment,” KRS 355.9-109 (2);

“Farm products,” KRS 355.9-109 (3);

“Fixture,” KRS 355.9-313;

“Fixture filing,” KRS 355.9-313;

“General intangibles,” KRS 355.9-106;

“Inventory,” KRS 355.9-109 (4);

"Lien creditor," KRS 355.9-301 (3);

"Proceeds," KRS 355.9-306 (1);

"Purchase money security interest," KRS 355.9-107*;*

"United States," KRS 355.9-103.

(3) The following definitions in other Articles apply to this Article:

"Check," KRS 355.3-104;

"Contract for sale," KRS 355.2-106;

"Holder in due course," KRS 355.3-302;

"Note," KRS 355.3-104;

"Sale," KRS 355.2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 58. KRS 355.9-106 is amended to read as follows:

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, *whether or not it has been earned by performance.* [~~"Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper.~~] "General intangibles" means any personal property (including things in action) other than goods, accounts, [~~contract rights,~~] chattel paper, documents, [~~and~~] instruments *and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.*

SECTION 59. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this article by subsection (3)(c) of KRS 355.2-326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if:

(a) The consignor complies with the filing provision of the article on sales with respect to consignments (subsection (3)(c) of KRS 355.2-326) before the consignee receives possession of the goods; and

(b) The consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

(c) The holder of the security interest receives the notification within five (5) years before the consignee receives possession of the goods; and

(d) The notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subsection have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor.

Section 60. KRS 355.9-203 is amended to read as follows:

(1) Subject to the provisions of KRS 355.4-208 on the security interest of a collecting bank, *KRS 355.8-321*

on a security interest in securities and KRS 355.9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties *with respect to the collateral and does not attach* unless:

(a) The collateral is in the possession of the secured party *pursuant to agreement*[~~;~~] or [~~(b)~~] the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops *growing or to be grown* [~~or oil, gas or minerals to be extracted~~] or timber to be cut, a description of the land concerned.

(b) Value has been given; and

(c) The debtor has rights in the collateral. [~~In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.~~]

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) of this section have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by KRS 355.9-306.

(4) A transaction, although subject to this Article, is also subject to KRS Chapters 190, 226, 287, 288, 290, 291, 359 and 360, and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Section 61. KRS 355.9-204 is amended to read as follows:

(1) *Except as provided in subsection (2) of this section, a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.*

(2) [~~A security interest cannot attach until there is agreement (subsection (3) of KRS 355.1-201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.~~

~~(2) For the purposes of this section the debtor has no rights:~~

~~(a) In crops until they are planted or otherwise become growing crops, in the young of livestock until they conceived;~~

~~(b) In fish until caught, in oil, gas or minerals until they are extracted, in timber until it is cut;~~

~~(c) In a contract right until the contract has been made;~~

~~(d) In an account until it comes into existence.~~

~~(3) Except as provided in subsection (4) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.~~

~~(4)~~] No security interest attaches under an after-acquired property clause:

(a) To crops which become such more than one year after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;

(b) To consumer goods other than accessions (KRS 355.9-314) when given as additional security unless the debtor acquires rights in them within ten (10) days after the secured party gives value.

(3)[~~(5)~~] Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment *(subsection (1) of KRS 355.9-105)*.

Section 62. KRS 355.9-205 is amended to read as follows:

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts[~~, contract rights~~] or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

Section 63. KRS 355.9-301 is amended to read as follows:

(1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of:

(a) Persons entitled to priority under KRS 355.9-312;

(b) A person who becomes a lien creditor [~~without knowledge of the security interest and~~] before *the security interest* [~~it~~] is perfected;

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business *or is a buyer of farm products in ordinary course of business,* to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) In the case of accounts[~~, contract rights,~~] and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty (20) days after the *debtor receives possession of the* collateral [~~comes into possession of the debtor~~], he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. [~~Unless all the creditors represented had knowledge of the security interest such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest.~~]

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five (45) days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

Section 64. KRS 355.9-302 is amended to read as follows:

(1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under KRS 355.9-305;

(b) A security interest temporarily perfected in instruments or documents without delivery under KRS 355.9-304 or in proceeds for a ten day period under KRS 355.9-306;

(c) *A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate* [~~a purchase money security interest in farm equipment having a purchase price not in excess of $500; but filing is required for a fixture under KRS 355.9-313 or for a motor vehicle required to be licensed~~];

(d) A purchase money security interest in consumer goods; *but, subject to subsections (3) and (4) of this section, filing is required for a motor vehicle; and fixture filing is required for priority over conflicting interests* *in fixtures to the extent provided in KRS 355.9-313* [~~but filing is required for a fixture under KRS 355.9-313 or for a motor vehicle required to be licensed~~];

(e) An assignment of accounts [~~or contract rights~~] which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts [~~or contract rights~~] of the assignor;

(f) A security interest of a collecting bank (KRS 355.4-208) *or in securities (KRS 355.8-321)* or arising under the Article on Sales (see KRS 355.9-113) or covered in subsection (3) of this section;

(g) A security interest in property, including after-acquired property, under a mortgage or security agreement creating a lien upon real and personal property, including after-acquired property, executed by a railroad or public utility corporation and recorded and filed pursuant to the applicable provisions of the Kentucky Revised Statutes.

(h) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) *The filing of a financing statement otherwise required by this article is not necessary or effective to perfect a security interest in property subject to:*

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this article for filing of the security interest;

(b) The provisions of KRS Chapter 186A, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of KRS 355.9-103).

(4) Compliance with a statute or treaty described in subsection (3) of this section is equivalent to the filing of a financing statement under this article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in KRS 355.9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this article. [~~The filing provisions of this article do not apply to a security interest in property subject to a statute:~~

~~(a) of the United States which provides for a national registration or filing of all security interests in such property; or~~

~~(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.~~

~~(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.~~]

(5) KRS 355.9-401 to 355.9-406, inclusive, shall not apply to a security interest in property of any description, including after-acquired property of whatever kind, or any interest therein, created by a deed of trust or mortgage made by a utility, as defined in KRS 278.010, a corporation formed under KRS 279.010 to 279.220 or a corporation formed under KRS 279.310 to 279.600, but such security interest can be perfected only by recordation in accordance with the requirements of KRS 382.340.

Section 65. KRS 355.9-304 is amended to read as follows:

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in *money or* instruments (other than *certificated securities or* instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) *of this section and subsections (2) and (3) of KRS 355.9-306 on proceeds.*

(2) During the period that goods are in possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, *but priority between conflicting security interests in the goods is subject to subsection (3) of KRS 355.9-312*; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

Section 66. KRS 355.9-305 is amended to read as follows:

A security interest in letters of credit and advices of credit (subsection (2) (a) of KRS 355.5-116), goods, instruments *(other than certificated securities), money,* negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Section 67. KRS 355.9-306 is amended to read as follows:

(1) "Proceeds" includes whatever is received *upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement* [~~when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right~~]. Money, checks, *deposit accounts* and the like are "cash proceeds." All other proceeds are "non-cash proceeds."

(2) Except where this article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof [~~by the debtor~~] unless *the disposition* [~~his action~~] was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless*:*

(a) A filed financing statement *covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds* [~~covering the original collateral also covers proceeds~~]; or

(b) *A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or*

(c) The security interest in the proceeds is perfected before the expiration of the ten (10) day period. *Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this article for original collateral of the same type.*

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest *only in the following proceeds:*

(a) In identifiable non-cash proceeds *and in separate deposit accounts containing only proceeds*;

(b) In identifiable cash proceeds in the form of money which is *neither* [~~not~~] commingled with other money *nor* [~~or~~] deposited in a *deposit* [~~bank~~] account prior to the insolvency proceedings;

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a *deposit* [~~bank~~] account prior to the insolvency proceedings; and

(d) In all cash and *deposit* [~~bank~~] accounts of the debtor *in which*, [~~if other cash~~] proceeds have been commingled *with other funds* [~~or deposited in a bank account~~], but the perfected security interest under this paragraph [~~(d)~~] is*:*

1. Subject to any right of set-off; and

2. Limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings *less the sum of:*

(i) The payments to the secured party on account of cash proceeds received by the debtor during such period; and

(ii) The cash proceeds received by the debtor during such period to which the secured party is entitled under subsection (4)(a) and (c) of this section [~~and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the ten day period~~].

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under KRS 355.9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

Section 68. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold at public auction through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods [~~and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313)~~], a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes [~~or his own farming operations~~] unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

(7) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five (45) days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five (45) day period.

Section 69. KRS 355.9-308 is amended to read as follows:

A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in the chattel paper or instrument:

(1) Which is perfected under KRS 355.9-304 (permissive filing and temporary perfection) or under KRS 355.9-306 (perfection as to proceeds) if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(2) Which is claimed merely as proceeds of inventory subject to a security interest (KRS 355.9-306) even though he knows that the specific paper or instrument is subject to the security interest. [~~A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of~~

~~his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under KRS 355.9-304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest (KRS 355.9-306), even though he knows that the specific paper is subject to the security interest.~~]

Section 70. KRS 355.9-309 is amended to read as follows:

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (KRS 355.3-302) or a holder to whom a negotiable document of title has been duly negotiated (KRS 355.7-501) or a bona fide purchaser of a security (KRS *355.8-302* [~~355.8-301~~]) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Section 71. KRS 355.9-312 is amended to read as follows:

(1) The rules of priority stated in *other sections of this part and in the following sections shall govern when applicable: KRS 355.4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; KRS 355.9-103 on security interests related to other jurisdictions; KRS 355.9-114 on consignments* [~~the following sections shall govern where applicable: KRS 355.4-208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; KRS 355.9-301 on certain priorities; KRS 355.9-304 on goods covered by documents; KRS 355.9-306 on proceeds and repossessions; KRS 355.9-307 on buyers of goods; KRS 355.9-308 on possessory against non-possessory interests in chattel paper on non-negotiable instruments; KRS 355.9-309 on security interest in negotiable instruments, documents or securities; KRS 355.9-310 on priorities between perfected security interests and liens by operation of law; KRS 355.9-313 on security interests in fixtures as against interests in real estate; KRS 355.9-314 on security interests in accessions as against interests in goods; KRS 355.9-315 on conflicting security interests where goods lose their identity or become part of a product; and KRS 355.9-316 on contractual subordination~~].

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A *perfected* purchase money security interest in inventory collateral has priority over a conflicting security interest in the same *inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer* [~~collateral~~] if:

(a) The purchase money security interest is perfected at the time the debtor *receives* [~~received~~] possession of the *inventory* [~~collateral~~]; [~~and~~]

(b) *The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory:*

(i) Before the date of the filing made by the purchase money secured party; or

(ii) Before the beginning of the twenty-one (21) day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of KRS 335.9-304) [~~Any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest~~]; [~~and~~]

(c) *The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and*

(d) The [~~Such~~] notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral *or its proceeds* if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty (20) days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined *according to the following rules* [~~as follows~~]:

(a) *Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection* [~~In the order of filing if both are perfected by filing, regardless of which security interest attached first under KRS 355.9-204 (1) and whether it attached before or after filing~~];

(b) *So long as conflicting security interests are unperfected, the first to attach has priority* [~~In the order of perfection unless both are perfected by filing, regardless of which security interest attached first under KRS 355.9-204 (1) and, in the case of a filed security interest, whether it attached before or after filing; and~~

~~(c) In the order of attachment under KRS 355.9-204 (1) so long as neither is perfected~~].

(6) For the *purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds* [~~purpose of the priority rules of subsection (5), a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing~~].

(7) If future advances are made while a security interest is perfected by filing or, the taking of possession, or under KRS 355.8-321 on securities, the security interest has the same priority for the purposes of subsection (5) of this section with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Section 72. KRS 355.9-313 is amended to read as follows:

(1) *In this section and in the provisions of part 4 of this article referring to fixture filing, unless the context otherwise requires:*

(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) A "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of KRS 355.9-402;

(c) A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this article in ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods

become fixtures or within ten (10) days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this article; or

(d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5) of this section, a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) [~~The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under this Article unless the structure remains personal property under applicable law. The law of this state other than this chapter determines whether and when other goods become fixtures. This chapter does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.~~

~~(2) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in subsection (4).~~

~~(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in subsection (4) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.~~

~~(4) The security interests described in subsections (2) and (3) do not take priority over~~

~~(a) a subsequent purchaser for value of any interest in the real estate; or~~

~~(b) a creditor with a lien on the real estate subsequently obtained by judicial proceedings; or~~

~~(c) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.~~

~~(5)~~] When *the* [~~under subsections (2) or (3) and (4) a~~] secured party has priority over *all owners and encumbrancers of* [~~the claims of all persons who have interests in~~] the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Section 73. KRS 355.9-318 is amended to read as follows:

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in KRS 355.9-206 the rights of an assignee are subject to

(a) All the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment *or a part thereof* under an assigned contract *has not been fully earned by performance* [~~right has not already become an account~~], and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the *amount due or to become due* [~~account~~] has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor *is ineffective if it* [~~which~~] prohibits assignment of an account *prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest* [~~or contract right to which they are parties is ineffective~~].

Section 74. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is equipment used in farming operations, or farm products, or accounts, [~~contract rights~~] or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops *growing or to be grown* in the office of the county clerk in the county where the land [~~on which the crops are growing or to be grown~~] is located;

(b) When the collateral is *timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of KRS 355.9-103, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which* [~~goods which at the time the security interest attaches~~] are or are to become fixtures, then in the office where a mortgage on the real estate [~~concerned~~] would be filed or recorded;

(c) In all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence *or,* [~~if the debtor is not a resident of this state but has a principal place of business in this state, in the office of the county clerk in the county where the nonresident has a principal place of business,~~] if the debtor is a nonresident of this state, [~~and has no principal place of business in this state~~] then in the office of the secretary of state of the Commonwealth of Kentucky. [~~The secretary of state may collect a fee of $3.00 for each filing in his office under this section.~~]

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the

requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) [~~If collateral is brought into this state from another jurisdiction,~~] The rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section:

(a) An individual debtor for whom filing is controlled by KRS 355.9-401(1)(c) shall be deemed a resident of the county in which the debtor's principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362;

(d) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky;

(e) A corporation organized under KRS Chapter 271A, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the secretary of state which officially designates its current registered office;

(f) A corporation not organized under the laws of this state and authorized to transact or do business in this state under KRS Chapter 271A, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the secretary of state which officially designates its current registered office;

(g) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of the state of the Commonwealth of Kentucky;

(h) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of the state of the Commonwealth of Kentucky;

(i) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(j) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky; and

(k) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

Section 75. KRS 355.9-402 is amended to read as follows:

(1) A financing statement is sufficient if it *gives the names of the debtor and the secured party,* is signed by the debtor [~~and the secured party~~], gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown [~~or goods which are or are to become fixtures~~], the statement must also contain a description of the real estate concerned *and must describe the production season. If the production season is not described, the financing statement shall be deemed to describe the crops produced in the production season which ends within twelve (12) months after the filing date of the financing statement. A financing statement shall not describe more than one (1) production season. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of KRS 355.9-103, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5).* A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by *the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state or in any other state* [~~both parties. The chattel mortgage or other instrument referred to in KRS Chapter 186 shall be deemed to mean financing statements and shall be filed in accordance with the provisions of KRS Chapter 355. If at the time the financing statement required by this section is filed there is an indebtedness of two hundred dollars or more, that fact shall be stated~~].

(2) [~~If the property intended as collateral is consumer goods as defined in KRS 355.9-109 (1) in the possession of the consumer debtor at the time the financing statement required by this section is filed, and if the property is a motor vehicle, the make, year, model and motor number or identification number shall be given.~~

~~(3)~~] A financing statement which otherwise complies with subsection (1) is sufficient *when* [~~although~~] it is signed [~~only~~] by the secured party *instead of the debtor if* [~~when~~] it is filed to perfect a security interest in:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, *or when the debtor's location is changed to this state.* Such a financing statement must state that the collateral was brought into this state, *or that the debtor's location was changed to this state* under such circumstances; *or*

(b) Proceeds under KRS 355.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral*;*

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7) of this section).

(3)[~~(4)~~] A form substantially as follows is sufficient to comply with subsection (1) *of this section*:

Name of debtor (or assignee) ________________________________

Address ________________________________

Name of secured party (or assignee) ________________________________

Address ________________________________

(a)[~~1.~~] This financing statement covers the following types (or items) of property:

(Describe) ________________________________

(b)[~~2.~~] (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe Real Estate) ________________________________

(c)[~~3.~~] *(If applicable) The above goods are to become fixtures on (or) The above timber is standing on (or) The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on:*

(Describe Real Estate) ____

and this financing statement is to be filed in the same office as the real estate records. (If the debtor does not have an interest of record) The name of a record owner is __________

[~~(If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:~~

~~(Describe Real Estate)~~ ____]

(d)[~~4.~~] (If [~~proceeds or~~] products of collateral are claimed) [~~Proceeds-~~]Products of the collateral are also covered.

Signature of Debtor (or Assignor) ____

Signature of Secured Party (or Assignee) ____

(4)[~~(5)~~] *A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement.* [~~The term "financing statement" as used in this article means the original financing statement and any amendments but~~] If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. *In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.*

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of KRS 355.9-103, or a financing statement filed as a fixture filing (KRS 355.9-313), must show that it covers this type of collateral, must recite that it is to be filed in the same office as the real estate records, and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) The goods are described in the mortgage by item or type;

(b) The goods are or are to become fixtures related to the real estate described in the mortgage;

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the debtor notifies the secured party in writing of the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8)[~~(6)~~] A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Section 76. KRS 355.9-403 is amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) *Except as provided in subsection (6) of this section* a filed financing statement [~~which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement~~] is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses [~~on the expiration of such sixty day period after a stated maturity date or~~] on the expiration of *the* [~~such~~] five (5) year period[~~, as the case may be,~~] unless a continuation statement is filed prior to the lapse. *If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later.* Upon [~~such~~] lapse the security interest becomes unperfected, *unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.* [~~A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.~~]

(3) A continuation statement may be filed by the secured party [~~(a) within six months before and sixty days after a stated maturity date of five years or less, and (b) otherwise~~] within six (6) months prior to the expiration of the five (5) year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and date filed and state that the original statement is still effective. *A continuation statement signed by a person other than the secured party or record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee.* Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it *immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other relating filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.*

(4) *Except as provided in subsection (7) of this section* a filing officer shall mark each statement with a [~~consecutive~~] file number and with the date and hour of filing and shall hold the statement *or a microfilm or other photographic copy thereof* for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and indexing an original or a continuation statement shall be as provided for in KRS 64.012. This fee includes the fee for filing and indexing a termination statement and for sending or delivering the terminated instrument and financing statement.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of KRS 355.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of KRS 355.9-103, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Section 77. KRS 355.9-404 is amended to read as follows:

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, *for each filing officer with whom the financing statement was filed,* a *termination* statement *to the effect* that he no longer claims a security interest under the financing statement, and identify the original statement by file number and date filed. A termination statement signed by a person other than the secured party of record must

[~~include or~~] be accompanied by *a separate written* [~~the assignment or a~~] statement *of assignment signed* by the secured party of record *and complying with subsection (2) of KRS 355.9-405, including payment of the required fee,* [~~that he has assigned the security interest to the signer of the termination statement~~]. The uniform fee for filing and indexing such an assignment or statement thereof shall be seventy-five (75) cents. If the affected secured party fails to *file such termination statement as required by this subsection, or to* send such a termination statement within ten (10) days after proper demand therefor he shall be liable to the debtor for one hundred dollars ($100), and in addition for any loss caused to the debtor by such failure.

(2) In the absence of a demand by the debtor for a statement of termination, and within fifteen (15) days after a secured transaction evidenced by record in the county clerk's *or secretary of state's* office has terminated, the secured party *must file with each filing officer with whom the financing statement was filed* [~~shall send to the clerk~~] a *termination* statement *to the effect* that he no longer claims a security interest under the financing statement or other instrument, which shall be identified by file number and date filed. If the actual secured party willfully fails to send such a termination statement within fifteen (15) days after he no longer claims a security interest, he shall be liable to the debtor for twenty-five dollars ($25), and in addition for any loss caused to the debtor by such failure.

(3) On presentation to the filing officer of such a termination statement he must note it in the index. *If he has received the termination statement in duplicate, he shall return one (1) copy of the termination statement to the secured party stamped to show the time of receipt thereof.* [~~The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.~~] Whenever a statement required under *this chapter* [~~KRS Ch. 355~~] need be sent to a party to the transaction by the *filing officer* [~~county clerk~~], it shall be sufficient for the *filing officer* [~~county clerk~~] to send the statement to the party entitled to receive it, at his last known address. *If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one (1) year after receipt of the termination statement.*

(4) The uniform fee for filing and indexing a termination statement for any financing statement filed prior to July 1, 1966 for which a termination fee was not paid when the financing statement was filed and for sending or delivering the terminated instrument and for sending or delivering the financing statement shall be seventy-five (75) cents.

Section 78. KRS 355.9-405 is amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the *financing* statement by indication in the *financing* statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. [~~Either the original secured party or the assignee may sign this statement as the secured party.~~] On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in KRS 355.9-403 (4). The uniform fee for filing and indexing a financing statement so indicating an assignment shall be as provided in KRS 64.012.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing *in the place where the original financing statement was filed* of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement, *or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of KRS 355.9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee.* The uniform fee for filing and indexing such a separate statement of assignment shall be as provided in KRS 64.012. *Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of KRS 355.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this Act.*

(3) After the disclosure *or* [~~of~~] filing of an assignment under this section, the assignee is the secured party of record.

Section 79. KRS 355.9-406 is amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. *A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee.* Upon presentation of such a statement *of release* to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be as provided for in KRS 64.012.

SECTION 80. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. Upon request the filing officer shall furnish a certified copy of any filed financing statement or statement of assignment.

(3) Neither the filing officer nor any employe of the filing officer shall be personally liable for any damages which may arise due to information furnished pursuant to this section which is subsequently shown to be inaccurate.

SECTION 81. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

A consignor or lessor of goods may file a financing statement using the terms "consignor," "consignee," "lessor," "lessee" or the like instead of the terms specified in KRS 355.9-402. The provisions of this part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (KRS 355.1-201(37). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.

Section 82. 355.9-501 is amended to read as follows:

(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in KRS 355.9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in KRS 355.9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection *(3) of KRS 355.9-504 and* [~~(1)~~ ~~of~~] KRS 355.9-505) and with respect to redemption of collateral (KRS 355.9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subsection (2) of KRS 355.9-502 and subsection (2) of KRS 355.9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) Subsection (3) of KRS 355.9-504 and [~~subsection (1) of~~] KRS 355.9-505 *in its entirety,* which deal with disposition of collateral;

(c) Subsection (2) of KRS 355.9-505 which deals with acceptance of collateral as discharge of obligation;

(d) KRS 355.9-506 which deals with redemption of collateral; and

(e) Subsection (1) of KRS 355.9-507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

Section 83. KRS 355.9-502 is amended to read as follows:

(1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under KRS 355.9-306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts, [~~contract rights,~~] or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

Section 84. KRS 355.9-504 is amended to read as follows:

(1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale *or lease*, selling, *leasing* and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts[~~, contract rights,~~] or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be

commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor *if, except in the case of consumer goods, he has not signed after default a statement renouncing or modifying his right to notification of sale. In the case of consumer goods no other notification need be sent. In other cases notification shall be sent to any other secured party from whom the secured party has received (before sending his notification to the debtor or before the debtors renunciation of his rights) written notice of a claim of an* [~~, and except in the case of consumer goods to any other person who has a security~~] interest in the collateral [~~and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral~~]. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings.

(a) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) In any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.

Section 85. KRS 355.9-505 is amended to read as follows:

(1) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under KRS 355.9-504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under KRS 355.9-507 (1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor *if he has not signed after default a statement renouncing or modifying his rights under this subsection. In the case of consumer goods no other notice need be given. In other cases notice shall be sent to any other secured party from whom the secured party has received (before sending his notice to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one (21) days after the notice was sent,* [~~and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession~~] the secured party must dispose of the collateral under KRS 355.9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

SECTION 86. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

ARTICLE 11. TRANSITION

As used in this article, the term "old UCC" shall mean this chapter as it existed prior to July 1, 1987, and the term "new UCC" shall mean this chapter as amended effective July 1, 1987.

SECTION 87. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

Transactions validly entered into after July 1, 1960 and before July 1, 1987, and which were subject to the provisions of old UCC and which would be subject to this chapter as amended if they had been entered into after the effective date of new UCC and the rights, duties and interests flowing from such transactions remain valid after the latter date and may be terminated, completed, consummated or enforced as required or permitted by new UCC. Security interests arising out of such transactions which are perfected on July 1, 1987 shall remain perfected until they lapse as provided in new UCC, and may be continued as permitted by new UCC, except as stated in Section 88 of this Act.

SECTION 88. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

A security interest for the perfection of which filing or the taking of possession was required under old UCC and which attached prior to July 1, 1987, but was not perfected shall be deemed perfected on July 1, 1987, if new UCC permits perfection without filing or authorizes filing in the office or offices where a prior ineffective filing was made.

SECTION 89. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) A financing statement or continuation statement filed prior to July 1, 1987 which shall not have lapsed prior to July 1, 1987 shall remain effective for the period provided in old UCC, but not less than five (5) years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to July 1, 1987, any effective financing statement or continuation statement described in this section shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under new UCC.

(3) The effectiveness of any financing statement or continuation statement filed prior to July 1, 1987 may be continued by a continuation statement as permitted by new UCC, except that if new UCC requires a filing in an office where there was no previous financing statement, a new financing statement conforming to Section 90 of this Act shall be filed in that office.

(4) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if new UCC had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to such goods under subsection (6) of KRS 355.9-402 of new UCC on July 1, 1987.

SECTION 90. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) If a security interest is perfected or has priority on July 1, 1987 as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under new UCC, the perfection and priority rights of the security interest continue until three (3) years after July 1, 1987. The perfection will then lapse unless a financing statement is filed as provided in subsection (4) of this section or unless the security interest is perfected otherwise than by filing.

(2) If a security interest is perfected on July 1, 1987 under a law other than this chapter which requires no further filing, refiling or recording to continue its perfection, perfection continues until and will lapse three (3) years after July 1, 1987 unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing, or unless under subsection (3) of KRS 355.9-302 the other law continues to govern filing.

(3) If a security interest is perfected by a filing, refiling or recording under a law amended by new UCC which required further filing, refiling or recording to continue its perfection, perfection continues and will lapse on the date provided by the law so amended for such further filing, refiling or recording unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4) A financing statement may be filed within six (6) months before the perfection of a security interest would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must

identify the security agreement, statement or notice (however denominated in any statute or other law amended by new UCC), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under this chapter or under any statute or other law amended by this Act is still effective. KRS 355.9-401 and 355.9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of KRS 355.9-403 (3) for continuation statements apply to such a financing statement.

SECTION 91. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in this article, old UCC shall apply to any questions of priority if the positions of the parties were fixed prior to July 1, 1987. In other cases questions of priority shall be determined by new UCC.

SECTION 92. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

Unless a change in law has clearly been made, the provisions of new UCC shall be deemed declaratory of the meaning of old UCC.

Section 93. KRS 14.090 is amended to read as follows:

(1) The secretary of state shall charge and collect for the state the following fees:

For issuing commission with seal of Commonwealth attached and all necessary forms to a commissioner of foreign deeds	$5.00
For issuing commission with seal of Commonwealth to a notary public	$2.00
For issuing remission or respite	$2.00
For affixing seal of Commonwealth to all attestations and certificates by the secretary of state	$2.00
For each warrant of arrest	$2.00
For issuing a certification as provided in Section 80 of this Act	*$2.00*
For providing a certified copy of a financing statement or statement of assignment as provided in Section 80 of this Act	*$2.00*
For each filing with the Secretary of State required by KRS 355.9-401	*$3.00*

(2) No fee shall be collected for affixing the state seal to a commission issued to any public officer other than commissioner of foreign deeds or notary public, or to a grant, or to a pardon of a felony.

Section 94. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00

Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	2.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	2.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	14.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Issuance of a certification as provided in Section 80 of this Act	*2.00*
Certificated copy of financing statement or statement of assignment as provided in Section 80 of this Act	*2.00*
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00

Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	2.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	20.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.75
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271A, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00

Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070(1)(a)	2.00
Certification of franchise tax assessment	2.50

SECTION 95. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The motor vehicle lien statement, provided for in Section 98 of this Act, shall be developed by January 1, 1987 by the transportation cabinet, in cooperation with county clerks, financial institutions and auto dealers. The transportation cabinet shall ensure that the motor vehicle lien statement is in a similar form and contains the same information as that provided for in KRS 355.9-402 and in addition include the year, make, motor number and identification number of the motor vehicle.

Section 96. KRS 186A.140 is amended to read as follows:

(1) The department of vehicle regulation shall provide by administrative regulations, procedures for registration or titling, for a vehicle in a county not equipped with automated facilities provided for by this chapter, or whose facilities have been rendered useless for a period exceeding one (1) day by reason of calamity.

(2) Procedures developed under this section shall be consistent with concepts that liens associated with motor vehicles shall be *submitted for notation upon the certificate of title to* [~~filed with~~] the county clerk, and that a title shall be issued centrally from Frankfort, after careful review of an application to determine correctness and legitimacy of it.

Section 97. KRS 186A.190 is amended to read as follows:

(1) *The perfection and discharge of a security interest in a motor vehicle, required to be registered or titled in accordance with this chapter, shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and remain effective until discharged under this chapter and KRS Chapter 186.*

(2) The notation of security interests [~~Financing statements~~] relating to vehicles required to be titled in Kentucky through the county clerk shall be *done* [~~filed~~] in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated. Notwithstanding the existence of any filed financing statement *under the provisions of KRS Chapter 355* relating to any vehicle registered or titled in Kentucky, the sole means of *perfecting and discharging a security interest* [~~determining priority of security interests~~] in a [~~such~~] vehicle *for which a certificate of title is required by this chapter is by* [~~shall be the~~] notation [~~of the security interest~~] on such vehicle's *certificate of* [~~registration or~~] title. *In other respects the security interest is governed by the provisions of KRS Chapter 355.*

(3)[~~(2)~~] Before ownership of a vehicle subject to a lien evidenced by *notation on the certificate of title* [~~a financing statement executed pursuant to KRS Chapter 355~~] may be transferred, the transferor shall obtain the release of the prior liens in his name against the vehicle being transferred. *Once a security interest has been noted on the owner's title, no subsequent title may be issued by any county clerk free of such notation unless the owner's title is presented to the clerk and it has been noted thereon, that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk.*

(4)[~~(3)~~] No more than two (2) active *security interests* [~~financing statements as provided by KRS Chapter 355~~] may be *noted* [~~recorded~~] upon a certificate of title.

(5)[~~(4)~~] In *noting a security interest* [~~recording the filing of a financing statement~~] upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was *noted* [~~filed~~], *the notation number* [~~its file number~~] and the county in which the

security interest was noted [~~financing statement is on file~~]. *The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the motor vehicle lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.*

(6) In lieu of any and all fees prescribed by statute and for all the costs incurred in the notation and discharge of a security interest on a motor vehicle on the certificate of title, the county clerk shall receive ten dollars and fifty cents ($10.50) of which seven dollars and fifty cents ($7.50) shall be retained by the clerk and three dollars ($3.00) transmitted to the state treasurer. The fee prescribed by this subsection shall be paid at the time of submittal of the motor vehicle lien statement described in KRS 186A.195.

(7)[~~(5)~~] A copy of the application, certified by the county clerk, indicating the lien will be *noted on the certificate of title* [~~filed~~] shall be forwarded to the *lienholder* [~~lender~~].

Section 98. KRS 186A.195 is amended to read as follows:

(1) *As used in this chapter a motor vehicle lien statement is a document to be submitted by the secured party to the county clerk. Upon submission of the motor vehicle lien statement the county clerk shall use the information contained therein to note the security interest on the certificate of title. The county clerk may make motor vehicle lien statements available to the general public. However, public availability of such statements is not necessary or effective to perfect a security interest in motor vehicles required to be registered or titled in accordance with this chapter.*

(2) If a *motor vehicle lien statement* [~~financing statement~~] and the required fees accompany the application for first title of a vehicle in the name of an owner, the county clerk shall enter the information required by KRS 186A.190*(5)*[~~(4)~~] into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190*(5)*[~~(4)~~]. The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(3)[~~(2)~~] If a *motor vehicle lien statement* [~~financing statement~~] and the required fees are not received at the time of application for first title of a vehicle in the name of the owner due to owner's residency in another county *or if the form prescribed by KRS 186A.060 indicates a pending lien but the motor vehicle lien statement does not accompany the application for title*, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be *noted or that a lien is pending* [~~filed~~]. The clerk shall indicate a title is not to be issued until the lien has been *noted* [~~filed~~] and fees, *according to KRS 186A.190,* paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the *motor vehicle lien statement* [~~financing statement~~] and [~~required~~] fees, *contained in KRS 186A.190* enter into the automated vehicle information system (AVIS) the date of lien *notation and the notation number,* [~~filing and the file number~~] thus enabling the system to produce the title in Frankfort.

(4) Should a certificate of title be issued after the thirty (30) day period has expired without the notation of a security interest thereon or should there be no provision made for a lien to be noted in the county of residence of the debtor within thirty (30) days and the title issued within that time, the secured party shall request from the debtor, and the debtor shall submit to the secured party, the certificate of title. The secured party shall submit the certificate of title along with the motor vehicle lien statement to the county clerk of the county of the debtor's residence. The county clerk shall then enter the information required by KRS 186A.190(5) into the automated vehicle information system (AVIS) and note on the certificate of title in the appropriate section the information described in that section. Following the notation of the appropriate information on the certificate of title, the county clerk shall return the title to the debtor.

(5) The security interest noted on the certificate of title shall be deemed perfected at the time the security interest attaches (KRS 355.9-203) if the secured party tenders the required fees and submits a properly completed motor vehicle lien statement and application for first title or, in the case of a vehicle previously titled in the name of its debtor, the certificate of title to the appropriate county clerk within ten (10) days of attachment. Otherwise the security interest shall be deemed perfected at the time that such fees are tendered and such documents are submitted to the appropriate county clerk.

Section 99. KRS 186A.200 is amended to read as follows:

(1) With respect to a vehicle, previously titled in the name of its debtor, the secured party shall, within fifteen (15) days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one prior lien indicated thereon, and present *to the county clerk the certificate of title, which the secured party shall have the right to obtain from the debtor,* [~~it~~] together with the *motor vehicle lien statement* [~~financing statement~~] and the required fees *in KRS 186A.190* to the county clerk.

(2) For failure to present both the title and *motor vehicle lien statement* [~~financing statement~~] within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by KRS 186A.190*(5)*[~~(4)~~] into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by KRS 186A.190*(5)*[~~(4)~~].

Section 100. KRS 186A.205 is amended to read as follows:

Whenever a security interest is assigned as provided by KRS 186.045*(1)*[~~(4)~~], the county clerk of a county that is operating under automated procedures shall, in addition to carrying out his requirements stated therein, enter the record of lien assignment into the automated system in the manner directed by the bureau of vehicle regulation.

Section 101. KRS 186A.210 is amended to read as follows:

Whenever a security interest to a vehicle has been discharged as provided by KRS 186.045*(2)*[~~(5)~~], the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, *within five (5) days* [~~promptly~~] enter the record of termination into the automated system. *The automated system shall be programmed to allow a county clerk in a county where the termination statement was not received to access the automated system to determine the county and date that the record of termination was entered into the automated system.* The clerk *of the county where the termination statement was received* shall then release the lien recorded upon the title in the manner directed by the department of vehicle regulation, and take such other action with respect to a termination as is directed by the department of vehicle regulation.

Section 102. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration [~~and ownership~~] containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the governor that previously issued plates continue to be used for a designated period. For services performed the owner shall pay the county clerk the sum of two dollars ($2) for each registration, or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(2) The certificate of registration [~~and ownership~~] shall contain the registration number, the *name* [~~names~~] and post office *address* [~~addresses~~] of the owner [~~and the secured party as shown by the financing statement on file in the office of the county clerk~~] and such other information as the cabinet may require. [~~The owner's copy of such certificate shall bear the seal of the county clerk who issued same. No fee shall be charged for placing such seal on the owner's copy of the certificate.~~

~~(3) If a motor vehicle, other than a new motor vehicle, is registered in this state under the authority of a bill of sale, registration receipt or title, the certificate of registration and ownership shall show the title or the registration number and the name of the state issuing same under which the motor vehicle was last registered in addition to the other required information.~~]

Section 103. KRS 186.045 is amended to read as follows:

[~~(1) Financing statements relating to vehicles required to be registered in Kentucky by the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated.~~

~~(2) (a) Whenever a financing statement required by KRS Chapter 355 relating to any vehicle registered or required to be registered in Kentucky for use on the highway is presented to a county clerk for filing, such clerk shall also immediately note information required by the cabinet relative thereto on the owner's copy of the certificate of registration and ownership or transfer receipt issued for the current registration period as noted in subsection (2) of KRS 186.170, which the secured party must obtain and present to the county clerk, along with the financing statement, within fifteen (15) days, exclusive of Sundays and holidays, after execution of the security agreement. The clerk shall also note such information on the clerk's copy of the certificate of registration and ownership or transfer receipt maintained in his office in numerical order. The clerk noting the information on the owner's copy of the certificate of registration and ownership or transfer receipt shall return such receipt to the owner within five (5) days after making such notation. For filing the financing statement, the clerk shall collect a fee pursuant to KRS 64.012 from the secured party and, in addition, for noting the security interest on the required receipts, the clerk shall collect from the secured party a fee pursuant to KRS 64.012 for each additional motor vehicle included on the financing statement.~~

~~(b) Whenever a financing statement affecting a vehicle is presented to a county clerk for filing in any county other than the one in which the current receipt was issued, the county clerk shall, in addition to the other requirements of this section, mail a notice of the security interest on a form furnished by the cabinet to the clerk of the county in which the current receipt was issued. Upon receipt of said notice, the county clerk shall attach it to the copy of the current receipt on file, maintained in numerical order, in the county clerk's office and note the security interest on the clerk's copy of the receipt.~~

~~(3) For failure to present both the current receipt and financing statement within the time prescribed by subsection (2)(a), the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the current receipt.~~]

(1)[~~(4)~~] Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of *the* [~~such~~] statement to the debtor. *After the receipt of the statement of assignment and at the request of the assignee, enclosed with a self-addressed stamped envelope, the debtor shall forward the certificate of title to the assignee.* The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment *and the certificate of title* to the county clerk in whose office the *security interest was noted* [~~financing statement is on file~~]. Upon receipt of the assignment, the county clerk shall *note the assignment on the certificate of title and in addition include the name, address and zip code of the assignee and the date the assignment was noted* [~~mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the original financing statement~~]. *After the notation on the certificate of title, the county clerk shall return the certificate of title to the debtor.* For this service the county clerk shall collect a fee pursuant to KRS 64.012.

(2)[~~(5)~~] Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 through 355.9-507 or similar proceedings, the secured party shall, within *ten (10)* [~~fifteen (15)~~] days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the *motor vehicle lien statement was submitted* [~~financing statement is filed~~]. *The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee.* For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index [~~and, in addition, note on the clerk's copy of the current receipt maintained in his office in numerical order~~], in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's *title* [~~copy of the receipt~~] showing such security interest *to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party,* the clerk shall *discharge the security interest by noting* [~~also note~~] on such *title* [~~receipt~~] that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's *title* [~~receipt~~] to the owner. [~~The county clerk shall remove the financing statement from his files, mark "terminated" thereon and send or deliver it to the secured party along with any continuation statement, statement of assignment or statement of release pertaining thereto.~~] The county clerk shall then file the termination statement in the place from which the *motor vehicle lien statement* [~~financing statement~~] was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. *The* [~~No~~] fee [~~shall be collected~~] for these services *are included in the provisions of KRS 186A.190* [~~by the clerk. Once a security interest has been noted on the owner's copy of a certificate of registration and ownership or transfer receipt, no subsequent certificate of registration and ownership or transfer receipt may be issued by any county clerk free of such notation unless the owner's copy of the current receipt is presented to the clerk and it has noted thereon by the proper county clerk that the termination statement therefor has been filed. If this requirement is met,~~]

~~information relating to any security interest shown on the receipt as having been terminated may be omitted from the receipt to be issued by the clerk~~].

(3) Upon presentation of the owner's title showing such security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If such record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If such record of termination has not been entered into the automated system, in no case shall the county clerk of the county other than where the termination statement was delivered, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the motor vehicle lien statement was submitted.

(4)[~~(6)~~] Whenever any secured party repossesses a vehicle *titled in this state* [~~registered with a county clerk~~], for which a *security interest is in existence at the time of repossession* [~~financing statement has been filed~~], and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for *titling* [~~registering~~] and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the *lien* [~~current receipt~~] shall then omit from the *title* [~~certificate of registration and ownership or transfer receipt~~] he *makes application for* [~~issues~~] any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such *title* [~~clerk's copy of the current receipt,~~] which is superior to the one under which the vehicle was repossessed, must be shown on the *title* [~~receipt~~] issued by the clerk unless the prior secured party has *discharged* [~~terminated~~] such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(5)[~~(7)~~] Whenever any vehicle brought into this state is required to be *titled in this state* [~~registered with a county clerk~~] and such vehicle is then subject to a security interest in another state as shown by the out of state documents presented to the clerk, the county clerk is prohibited from *processing the application for title on* [~~registering~~] the vehicle unless the owner obtains from the secured party a financing statement *or motor vehicle lien statement* and presents same to the clerk along with *the* [~~all~~] fees *required in KRS 186A.190* [~~due~~]. [~~Such a financing statement must conform to the requirements of subsection (3) of KRS 355.9-402.~~] The clerk shall note the out of state security interest on the *certificate of title* [~~new registration receipt and on the clerk's copy thereof~~]. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145. [~~The penalty provided in subsection (3) of this section shall not apply to this subsection.~~]

(6)[~~(8)~~] The fees provided for in this section are in addition to any state fee provided for by law.

(7)[~~(9)~~] Any person violating any provision of this section or any person refusing to surrender a certificate of *title* registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(8)[~~(10)~~] The county clerk is prohibited from *noting* [~~filing~~] any *security interest on a certificate of title* [~~financing statement~~] on any vehicle subject to the provisions of *KRS Chapter 186A* [~~this section~~] if a certificate of *title* [~~registration and ownership or transfer receipt~~] therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a *discharge* [~~termination statement~~] is *noted on the certificate of title* [~~filed~~] for each [~~discharged~~] security interest and then a duplicate *title* [~~receipt~~] as provided for in *KRS 186A.180* [~~KRS 186.180~~] must be obtained from the clerk by the owner of the vehicle.

(9)[~~(11)~~] Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly *titled* [~~registered~~] herein under *KRS Chapter 186A* [~~KRS 186.020~~] and the security interest is authorized to be *noted on the certificate of title by* [~~filed with~~] the county clerk under *KRS Chapter 186A* [~~KRS 355.9-401. However, a security interest on any~~

~~vehicle which is not used on the public highways and for that reason is not required to be registered for highway use may be filed with the county clerk as otherwise permitted under KRS Chapter 355~~].

Section 104. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045*(2)*[~~(5)~~], 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who transports coal in violation of any provision of KRS 186.057 shall be fined not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500) for each offense.

Section 105. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has *a security interest in effect at the time of repossession* [~~filed a financing statement as required by KRS 186.045(2)~~] and a repossession affidavit as required by KRS *186.045(4)* [~~186.045(6)~~]. The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle;

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

Section 106. Section 95 of this Act shall become effective January 1, 1987.

Section 107. The provisions of this Act, except as provided in Section 106 of this Act, shall become effective July 1, 1987.

Section 108. The following KRS section is repealed:

186.047 Lapsed financing statement.

The Committee Amendment No. 1 to SB 28 is as follows:

Amend printed copy of SB 28:

On page 2, line 1, delete "*provision*" and insert in lieu thereof "*provisions*"; and

on page 3, line 20, delete the comma after "*like*"; insert "*(*" before "*including*"; delete "*but not*"; and

on page 3, line 21, delete "*limited to*"; after "*gas*" delete the comma and insert in lieu thereof "*)*"; and

on page 4, lines 3-9, delete lines 3-9 in their entirety and insert in lieu thereof "(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court."; and

on page 8, line 3, after "two" insert "(2)"; and

on page 12, line 7, after "like" insert "*(including oil and gas)*"; and

on page 34, line 5, place brackets around and strike through "(1)"; and

on page 34, line 15, before "(a)" insert "*(1)*" and place brackets around and strike through "(a)"; and

on page 34, line 20, before "(b)" insert "*(2)*" and place brackets around and strike through "(b)"; and on page 66, line 7, delete "*transferee, pledgor, or pledgee*" and insert in lieu thereof "*transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor*"; and

on page 69, line 11, after "*KRS 355.8-313(1).*" begin a new paragraph; and

on page 114, line 26, after "twenty-one" insert "(21)"; and

on page 115, line 4, after "twenty-one" insert "(21)"; and

on page 115, line 20, after "twenty-one" insert "(21)"; and

on page 118, line 3, after "period." begin a new paragraph; and

on page 118, line 21, place a bracket before and strike through the comma after "*in which*" and delete the bracket before "if ~~other cash~~]"; and

on page 129, line 12, delete the comma after "*or*"; and

on page 135, line 26, after "account" insert "*or*"; and

on page 143, line 1, after "collateral;" insert "*or*"; and

on page 143, line 8, after "(or" insert "*assignor*" and place brackets around and strike through "assignee"; and

on page 148, line 9, after "five" insert "(5)"; and

on page 156, line 7, delete "*statemen*t" and insert in lieu thereof "*statement*"; and

on page 156, line 26, after "*(KRS 355.1-201(37)*" insert "*)*"; and

on page 160, line 1, place a bracket before and strike through the comma after "accounts" and delete the bracket before "~~contract~~"; and

on page 162, line 2, delete "*debtors*" and insert in lieu thereof "*debtor's*"; and

on page 172, line 20, delete "*certificated*" and insert in lieu thereof "*certified*"; and

on page 177, line 4, delete "*wih*" and insert in lieu thereof "*with.*"

The Committee Amendment No. 2 to SB 28 is as follows:

Amend printed copy of SB 28:

on page 172, line 19, after the word "*Act*" to delete "$2.00" and insert in lieu thereof "*$3.50.*"

on page 172, line 22, after the word "*Act*" to delete the "$2.00" and insert in lieu thereof "*$3.50.*"

on page 177, line 5, after the "." to insert the following: "*The perfection of an assignment of a security interest which has been noted on the certificate of title shall be in accordance with the provisions of KRS 186.045(1).*"

on page 187, line 23, after the "." to delete lines 24, 25, and 26 in their entirety.

on page 188, line 1, to delete the portion of the line up to and including the "."

on page 188, line 3, after the word "assignment" to delete the words "*and the certificate of title*"

on page 188, line 5, after the word "*noted*" to add the following "*on the certificate of title.*"

on page 188, line 6 after the word "shall" to delete lines 7 and 8 in their entirety and line 9 up to and including the word "*noted.*"

on page 188, lines 9 thru 11, by removing the opening bracket from in front of the word "mark" and placing it in front of the word "original" deleting the strikethroughs from the same.

on page 188, line 11, after the word "[the]" to insert the following: "*motor vehicle lien statement.*"

on page 188, line 11, after the "." to delete the remainder of line 11, line 12 in its entirety and line 13 up to and including the "." and inserting in lieu thereof: "*The county clerk shall enter the assignment of the perfected security interest into the Automated Vehicle Information System.*"

HCR 62, A CONCURRENT RESOLUTION directing a study of the composition of the judicial circuits of Kentucky.

WHEREAS, the circuit court is the court of general jurisdiction in Kentucky and has original jurisdiction of all justifiable causes not exclusively vested in some other court; and

WHEREAS, the number of legal actions filed per circuit varies to a substantial degree between the fifty-six judicial circuits; and

WHEREAS, the variance in the number of legal actions maintained in the various circuits has resulted in weighted case loads per circuit judge that reach grossly disproportionate levels; and

WHEREAS, a disproportionately high weighted case load in a particular judicial circuit causes undue litigation delays and diminishes the quality of justice dispensed, to the considerable and undeserved disadvantage to the citizenry residing within the boundaries of that particular circuit;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study, during the 1986-87 interim period, of the need for and feasibility of altering the composition of the judicial circuits established by KRS 23A.020, for the purpose of equalizing the weighted case loads of the various judicial circuits and individual circuit court judges.

Section 2. That the commission shall complete the study by September 1, 1987, and shall present its findings and recommendations to the Interim Joint Committee on Judiciary-Civil for review.

Section 3. That staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee Substitute to HCR 62 is as follows:

HCR 62, A CONCURRENT RESOLUTION directing a study of the composition of the judicial circuits of Kentucky.

WHEREAS, the circuit court is the court of general jurisdiction in Kentucky and has original jurisdiction of all justifiable causes not exclusively vested in some other court; and

WHEREAS, the number of legal actions filed per circuit varies to a substantial degree between the fifty-six judicial circuits; and

WHEREAS, the variance in the number of legal actions maintained in the various circuits has resulted in weighted case loads per circuit judge that reach grossly disproportionate levels; and

WHEREAS, a disproportionately high weighted case load in a particular judicial circuit causes undue litigation delays and diminishes the quality of justice dispensed, to the considerable and undeserved disadvantage to the citizenry residing within the boundaries of that particular circuit;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to appoint a task force, the purpose of which shall be to examine, during the 1986-87 interim period, the need for and feasibility of altering the composition of the judicial circuits established by KRS 23A.020, for the purpose of equalizing the weighted case loads of the various judicial circuits and individual circuit court judges.

Section 2. That the task force so appointed shall consist of the Chief Justice of the Supreme Court of Kentucky, one circuit court judge, one commonwealth's attorney, three members of the Kentucky General Assembly, and one member of the Kentucky Bar Association not a member of any other category set out herein.

Section 3. That the findings and conclusions of the task force, arrived at pursuant to the directive contained in Section 1 of this Resolution, including summaries of any legislation which may be drafted or prefiled at the directive of the task force, shall be reported and published in the regular biennial reports of interim joint and special committees.

Section 4. That staff services to be utilized in support of the task force are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee Amendment No. 1 to Committee Substitute to HCR 62 is as follows:

Amend printed copy of Committee Substitute to HCR 62:

On page 2, line 7, after "judges" insert "; the impact of said territorial adjustments on the district court shall also be considered"; and

on page 2, line 10, after "judge," insert "one district court judge,"; and

on page 2, line 11, delete "three" and insert in lieu thereof "four."

The Committee on Transportation reported HB 208, HB 425, with Committee Amendment attached thereto, HB 600 and HB 634, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 208, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and U-Drive-Its, may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a medical information license plate. A medical information license plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25.00) is received by the county clerk and forwarded to the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. In addition, such application shall be accompanied by a physician's statement that the vehicle owner has a specific physical ailment or drug allergy, which if noted, may serve to aid emergency personnel treating the individual. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or money order. Medical information license plates issued under this section expire December 31 each year.

(2) The medical information license plate shall be a five (5) year license plate in the same form and character as license plates authorized by law, to be used upon similar private vehicles registered in Kentucky, except that such license plate shall bear the inscription "Medical Condition", a registration number and an appropriate standardized insignia.

(3) The cabinet shall send the medical information license plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue

said plate and receive thirteen dollars and fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars and fifty cents ($11.50) shall constitute the cabinet's fee. Annually thereafter, if a new license plate is not scheduled to be reissued, upon application to the county clerk of the county of residence and payment of an eleven dollar and fifty cents ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the medical information license plate.

(4) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the medical information license plate and return it to the county clerk who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom the medical information license plate was originally issued.

(5) For the services performed in issuing the medical information license plate and in annually issuing a current year renewal decal to be affixed to the plate, the county clerk shall receive from each applicant a fee of two dollars ($2.00). A like fee shall be charged for reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(6) The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purposes of this section.

HB 425, AN ACT relating to tolls.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.520 is amended to read as follows:

(1) The authority, while having the right to control tolls under this chapter or any lease, and the department, while having such right under this chapter or any such lease, are hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof. *The authority or the department shall not charge or collect tolls from state police vehicles, local police and fire department vehicles and emergency vehicles operated by ambulance services while such vehicles are being operated in an official capacity, in both emergency and non-emergency situations, on a turnpike project.*

(2) The authority, with the approval of the department, is hereby authorized to contract with any person, partnership, association or corporation desiring the use of any part of a project, including the right of way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, service stations, garages, stores, hotels, motels, and restaurants, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. A sufficient number of service stations shall be authorized to be established in each service area along any such turnpike to permit reasonable competition by private business in the public interest.

(3) During any period when tolls are under the control of the authority, such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued under the provisions of this chapter as to provide funds sufficient, with any other available funds, to pay (a) the cost of maintaining, repairing and operating such turnpike project or projects, unless such cost or any part thereof is being paid by the department as authorized in this chapter, and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other department, commission, board, bureau or agency of the Commonwealth. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the proceedings authorizing the issuance of such bonds or the trust indenture securing the same, shall be set aside in a sinking fund or funds which are hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the authority and the department. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the

provisions of the proceedings authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such proceedings or in such trust indenture, any such sinking fund shall be a fund for all bonds provided to be payable therefrom without distinction or priority of one (1) over another.

(4) Notwithstanding any of the foregoing provisions of this section, the department may, by separate proceedings ancillary to the proceedings of the authority authorizing the issuance of revenue bonds or revenue refunding bonds under the provisions of this chapter, covenant to pay all or any part of the cost of maintaining, repairing and operating any project constructed under the provisions of this chapter, and the department may, in such proceedings, covenant to make up all or any part of any deficiency in the fund or funds pledged to and charged with the payment of the principal of and the interest on such bonds from any funds or tax revenues available for general purposes of the department and not required by law to be devoted to some other purpose, and, inasmuch as such project will have been constructed by agreement with the department for the use and benefit of the Commonwealth and will eventually become the property of the Commonwealth, any such covenant shall have the force of contract between the Commonwealth and the holders of such revenue bonds or revenue refunding bonds.

(5) Notwithstanding any of the foregoing provisions of this section, the authority may, in the proceedings authorizing the issuance of revenue bonds or revenue refunding bonds for any turnpike project or projects under the provisions of this chapter or in the trust agreement securing such bonds, pledge to the payment of such bonds all motor fuel taxes and surtaxes collected by the Commonwealth on gasoline and other motor fuels consumed on such project or projects (except the two-sevenths (2/7) of said motor fuel taxes provided by KRS 138.220 to be set aside for the construction, reconstruction and maintenance of rural and secondary roads) and paid over to the authority by the department as revenues of such project or projects, and covenant to deposit such motor fuel taxes from time to time in the sinking fund or funds pledged to the payment of such bonds. In determining the amount of motor fuel consumed on any turnpike project the department shall divide the total miles traveled on such project by passenger automobiles, single unit trucks, and semitrailer trucks and buses as determined by the department by the average number of miles per gallon of motor fuel consumed by each of those classes of motor vehicle on the following basis:

Passenger automobiles	15 miles per gallon
Single unit trucks	10 miles per gallon
Semitrailer trucks and buses	5 miles per gallon

The Committee Amendment No. 1 to HB 425 is as follows:

Amend printed copy of HB 425:

on page 1, line 9, after the words "*department vehicles*" insert the following language: "*owned by a city or county government and so designated by an official license plate.*"

HB 600, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.99-060 is amended to read as follows:

The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 shall:

(1) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000);

(2) Have the license plates of such vehicle suspended for a period of one (1) year or until such time [~~thereafter~~] as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect; and

(3) *For the second and each subsequent offense within any five (5) year period,* have his operator's license revoked in accordance with KRS 186.560.

Section 2. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years; and

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 *upon conviction of a second and each subsequent offense within any five (5) year period.*

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1), who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a).

(6) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

HB 634, AN ACT relating to motor vehicle equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Every motor vehicle which was originally equipped with bumpers as standard equipment shall be so equipped when operated upon a highway. The suspension system shall not be modified in a manner which renders the bumpers incapable of functioning as intended during the operation of a motor vehicle.

(2) No person shall modify the suspension system of a motor vehicle in a manner which will raise the front or rear bumper more than three (3) inches above the original manufactured bumper height for that vehicle. No person shall operate a motor vehicle which has been so modified.

Section 2. KRS 189.993 is amended to read as follows:

(1) Any person who violates KRS 189.045 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined sixty dollars ($60.00) and costs of prosecution.

(3) Any person who violates any provision of *Section 1 of this Act or* KRS 189.205 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100).

(4) Any person who violates any provision of KRS 189.375 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100).

(5) Any person who violates KRS 189.505 shall be fined not less than sixty dollars ($60.00) nor more than two hundred dollars ($200) or be imprisoned for not more than thirty (30) days, or both.

(6) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than twenty dollars ($20.00) nor more than thirty-five dollars ($35.00).

(7) Any person who violates KRS 189.920 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(8) Any person who violates KRS 189.930 shall be fined not less than sixty dollars ($60.00) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not more than thirty (30) days, or both.

(9) Any person who violates KRS 189.940 shall be fined not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(10) If a member of a regular or volunteer fire department or rescue squad violates any provisions of subsection (5) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or 189.993, be immediately dismissed from his membership or employment with the fire department or rescue squad and shall be disqualified from being employed by or being a member of any fire department or rescue squad in the Commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, rescue squad, police department, or sheriff's office in the Commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.

(11) Any person who violates KRS 189.950 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(12) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(13) No producer or processor of natural resources shall allow the transporting of natural resources over the highways of the Commonwealth in excess of the weight limits without possessing a resource recovery road hauling permit. Violation for hauling in excess of prescribed limits without possession of a permit or transporting natural resources over prescribed limits of the resource recovery road hauling permit shall be not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each violation and shall be deposited in the resource recovery road fund.

The Committee Amendment No. 1 to HB 634 is as follows:

Amend printed copy of HB 634:

on page 1, line 3, after the word "*vehicle*" to insert the following: "*registered pursuant to KRS 186.050(1) and (3)(a).*"

on page 1, line 10, after the word "*vehicle*" to insert the following: "*described in subsection (1).*"

The Committee Amendment No. 2 to HB 634 is as follows:

Amend printed copy of HB 634:

on page 1, line 13, after the word "*modified*" to insert the following language "*after December 31, 1986,*"

Motions, Petitions and Communications

Representative Burch moved that he be recorded as voting "Yea" on HB 470. Agreed.

Representative Freibert moved that she be recorded as voting "Yea" on HB 144. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative J. Harper, HB 743, HB 744; Representative White, HB 746.

The following members filed requests to have their names added as co-sponsors of a Citation: Representative Crupper, Legislative Citation No. 38; Representative Mann, Legislative Citation No. 38; Representative McBee, Legislative Citation No. 38; Representative Meyer, Legislative Citation No. 38.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 316, by Representative Seum:

Amend printed copy of HB 316:

On page 2, line 14, by adding the following: "*No emissions testing program in existence on the effective date of this Act shall increase its emissions testing fee to compensate for the reduction in the number of vehicles tested or the elimination of the fee for vehicles which pass the test, as required by this Act.*"

Floor Amendment No. 1 to Committee Substitute to HB 120, by Representative Deskins:

Amend printed copy of Committee Substitute to HB 120:

On page 4, beginning on line 11, delete all language after the word "*damages*", to the period "." on line 14.

Floor Amendment No. 1 to Committee Substitute to HB 490, by Representative Reinhardt:

Amend printed copy of Committee Substitute for HB 490:

On page 4, on line 10,

By inserting after the word "*installers*" the following:

"*except master plumbers licensed pursuant to KRS Chapter 318*"

On page 5, on line 23,

By inserting a new subsection which reads as follows:

"*(3) Nothing in this Act shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to the effective date of this Act unless such inspection is deemed necessary due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint.*"

Floor Amendment No. 2 to HB 511, by Representative Blevins:

Amend printed copy of HB 511:

by amending committee amendment (1) on page 1 of the amendment at line 8 by inserting after the words "*Chapter 100*" the following: "*which obligates that unit of government to render a determination comparable in procedure and substance to that provided for in KRS 224.855 (5)*

Announcements

The following meetings were announced:

Prayer Breakfast, Wednesday, February 26, 1986, 7:45 a.m., Lieutenant Governor's Mansion.

Counties and Special Districts: Wednesday, February 26, 1986, 12 Noon.

Budget Recommendations on Energy, Commerce, etc., will make report at 4:30 p.m., Room 103, (T. Jones).

Health and Welfare: Room 109, 30 minutes on adjournment, Tuesday, February 25, 1986.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m., Wednesday, February 26, 1986.

On the roll call the vote was yeas 71—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, F. Brown, M. Brown, Bruce, Burch, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, J. Harper, Holbrook, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Mack, Mann, McBee, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Seum, Siler, Smith, Stone, Strong, Stumbo, Thomas, Todd, Worthington, Yates. Nays 1—Maggard.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 26, 1986

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative McElroy.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 25, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 786, by Representative Thomas: AN ACT relating to driver's licensing.

HB 787, by Representative Rattliff: AN ACT relating to embalmers and funeral directors.

HB 788, by Representatives M. Brown and Gedling: AN ACT relating to county roads.

HR 103, by Representative Lyne: A RESOLUTION adjourning the House of Representatives in honor of Russellville attorney George Sam Milam.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 782, HB 783, SB 95, SB 96.

Banking and Insurance: SB 277.

Cities: HB 770, HB 784.

Counties and Special Districts: HB 777.

Education: HB 771, HB 780, HJR 100.

Health and Welfare: HB 785, HJR 102.

Judiciary-Civil: HB 775, HB 776, HB 778, SB 243.

Judiciary-Criminal: HB 772, HB 774, HB 779.

Labor and Industry: HB 773.

Natural Resources and Environment: HJR 99.

State Government: HB 781, SB 227, SB 276.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Business Organizations and Professions: HB 718.

Counties and Special Districts: HB 742, HB 716.

Senate Message

Announcing passage of SJR 44, HJR 1 with Senate Amendment, HB 489 by way of Senate Committee Substitute, and HB 11.

Report of Committees

The Committee on Agriculture and Small Business reported HB 342, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 342, AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.232 is amended to read as follows:

As used in KRS 247.234 and 247.236:

(1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions.

(3) "Carnival" means an enterprise *which is erected in or moved to more than two (2) sites within this state or out of it in any twelve (12) month period* offering amusement or entertainment to the public by means of one (1) or more amusement rides and attractions.

(4) "Fair" means an enterprise principally devoted to the exhibition of products of agriculture, science, or industry in conjunction with the operation of one (1) or more amusement rides or attractions.

(5) "Owner" means any person who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee.

(6) "Commissioner" means the commissioner of Kentucky department of agriculture or his authorized representative.

The Committee Substitute to HB 342 is as follows:

HB 342, AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of one million dollars ($1,000,000) due to all bodily injuries or deaths per occurrence, *or in lieu thereof, if the applicant's amusement ride or amusement attraction is one (1) that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of liability insurance in the sum of one hundred thousand dollars ($100,000) or proof of financial responsibility in the sum of one hundred thousand dollars ($100,000).* Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.

The Committee on Cities reported HB 427 with Committee Substitute attached thereto, HB 523, HB 529, HB 618 with Committee Amendment attached thereto, HB 666 with Committee Amendment attached thereto, HB 738 with Committee Substitute attached thereto, and SB 207 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 427, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

"User fee" means the fee or charge imposed by a local government on the user of a public service for the use of the particular service.

SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Local governments may impose user fees for providing public services. User fees shall not generate revenues or profits in excess of the reasonable costs associated with providing a public service.

(2) When calculating the reasonable costs associated with providing a public service, a local government may consider, but shall not be limited to, the following costs:

(a) The costs directly incurred and charged to the budget of the department providing the public service;

(b) The costs of managing, billing and collecting the user fee;

(c) The costs of the fixed assets used to provide the service, or the principal and interest payments on any debt incurred to purchase property or equipment used to provide the public service;

(d) The costs incurred by other departments who provide services to support a particular public service; and

(e) The indirect costs which represent a proportion of the costs of administering other departments that support the public service, including finance costs, personnel costs and purchasing costs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Local governments levying user fees pursuant to Section 2 of this Act, shall establish a special account for each user fee levied. The special account shall be maintained separately from the local government's general fund and maintained according to general accepted accounting principals.

(2) All user fees collected and all disbursements of said fees shall be administered through the special user fee accounts.

The Committee Substitute to HB 427 is as follows:

HB 427, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

"User fee" means the fee or charge imposed by a local government on the user of a public service for the use of any particular service not also available from a non-governmental provider.

SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

User fees shall not generate revenues or profits in excess of the reasonable costs associated with providing a public service.

SECTION 3. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Local governments imposing user fees shall establish a special revenue account for each user fee.

(2) All user fees collected and all disbursement of such fees shall be administered according to generally accepted principles of governmental accounting.

HB 523, AN ACT changing the classification of the City of Watterson Park, in Jefferson County

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Watterson Park, in Jefferson County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Watterson Park, in Jefferson County, is transferred from the sixth to the fifth class of cities.

HB 529, AN ACT relating to the enforcement of city ordinances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) County police officers or sheriffs within the boundaries of any city located within the county, may make arrests or issue citations for violations of ordinances enacted by the legislative body of such city, if the city complies with the provisions of subsection (2) of this section.

(2) The legislative body of a city may authorize county police officers or sheriffs to enforce city ordinances which prescribe penalties for the violation thereof, within the boundaries of the city, by enacting a resolution authorizing county peace officers to enforce such ordinances. A copy of such resolution, and all existing ordinances imposing penalties for the violation thereof, shall be forwarded to the fiscal court of the county. All ordinances imposing penalties, or amendments to ordinances imposing penalties shall be filed with the county fiscal court prior to the effective date of such ordinances. Failure to file an ordinance with the fiscal court shall prevent its enforcement by the county police or sheriff.

HB 618, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.203 is amended to read as follows:

Cities and counties may exercise the power to zone through zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of dimensional variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; *and*

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning unit, as a condition to the granting of any zoning change, may require the submission of a development plan which, where agreed upon, shall be followed. As a further condition to the granting of a zoning change, the planning unit may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used solely for agricultural, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or courts' requirements for agricultural buildings, including and limited to one (1) mobile home used as a dwelling except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways*;*[~~,~~] and

(b) [~~That~~] All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated*;*

(5) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning catetory;

(b) Impose architectural or other visual requirements or restrictions upon development; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions shall be imposed, modified, removed and enforced.

The Committee Amendment No. 1 to HB 618 is as follows:

Amend printed copy of HB 618:

On page 4, line 5, after the word "*development*" and before the semicolon ";", insert the following: "*in areas zoned historic*";

And on page 4, line 9, delete the word "*shall*" and insert in lieu thereof the word "*may*";

And on page 4, line 10, after the word "*removed*" and before the word "*and*", insert the following: "*, amended*".

HB 666, AN ACT relating to cities participating in the county employes retirement system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years with interest at the rate actuarially assumed by the board.[~~; however,~~] A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, *except that cities which participate in the system pursuant to 1984 Acts Chapter 177, as amended by this Act, may, at their option, extend the payment schedule to a maximum of forty (40) years, may choose to make level payments over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employes electing coverage.*

[~~(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.~~]

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, *1986* [~~1985~~], local government retirement systems created pursuant to KRS 79.080, 90.400, 95.767 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.767, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall[~~, if its local pension system provides a defined benefit,~~] select the alternate participation plan as described in KRS 78.530(3), and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. *Cities which closed their local pension systems to new members and participated in the system prior to the effective date of 1984 Acts Chapter 177 as amended by this Act, whose employes at the time of transition were given the option to join the system shall not be required to offer said employes a second option to join the system as a result of any provision of 1984 Acts Chapter 177 as amended by this Act* [~~Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation~~].

Section 2. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621 or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of such expenses in their recommendations for pension system funding, and local governments shall add payments for such expenses to their annual contributions to their respective retirement systems.

(5) A city may provide for the retirement security of its employes through the creation of a money purchase or defined contribution plan qualified under section 401(a) of the internal revenue code of 1954 as amended. City employe deferred compensation plan created pursuant to KRS 18A.270, or money purchase or defined contribution plan, qualified under section 401(a) of the internal revenue code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employe entry into the county employes retirement system, as required by 1984 Acts Chapter 177, as amended by this Act.

Section 3. KRS 95.520 is amended to read as follows:

(1) There shall be in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund unless the policemen and fire fighters are included in the membership of the county employes retirement system.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) *(a) After July 1, 1986, no new pension fund shall be created pursuant to this section;*

(b) Cities which were covered by this section on or prior to July 1, 1986 shall provide for the retirement of police or fire fighters rehired after July 1, 1986 by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to July 1, 1986 shall place police or fire fighters newly hired after July 1, 1986 in the county employes retirement system. Such cities shall offer employes hired on or prior to July 1, 1986 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. Employes shall make their election by June 1, 1986;

(d) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions; and

(e) [~~As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant to KRS 78.535(4).

Section 4. KRS 95.621 is amended to read as follows:

(1) A city of the third class may adopt an ordinance creating a pension fund for fire fighters and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third-class city does elect to adopt KRS 95.621 to 95.629 all the provisions herein are mandatory. The provisions of KRS 95.620 shall apply to any city of the third class which has adopted KRS 95.621 to 95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) *(a) After July 1, 1986, no new pension fund shall be created pursuant to this section. Employes shall make their election by June 1, 1986;*

(b) Cities which were covered by this section on or prior to July 1, 1986 shall provide for the retirement of police or fire fighters rehired after July 1, 1986 by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to July 1, 1986 shall place police or firefighters newly hired after July 1, 1986 in the county employes retirement system. Such cities shall offer employes hired on or prior to July 1, 1986 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. Employes shall make their election by June 1, 1986;

(d) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions.

(e) [~~As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent~~

~~(33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant to KRS 78.535(4).

Section 5. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities of the second class, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries. The fund shall be established as of July 1, 1956, and shall be known as the "policemen's and fire fighter's retirement fund of the city of ________." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 287.225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) *(a) After July 1, 1986, no new pension fund shall be created pursuant to this section;*

(b) Cities which were covered by this section on or prior to July 1, 1986 shall provide for the retirement of police or fire fighters rehired after July 1, 1986 by placing such employes in the county employes retirement system;

(c) Cities which were covered by this section on or prior to July 1, 1986 shall place police or fire fighters newly hired after July 1, 1986 in the county employes retirement system. Such cites shall offer employes hired on or prior to July 1, 1986 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. Employes shall make their election by June 1, 1986;

(d) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions; and

(e) [~~As an alternate to coverage under subsection (1) of this section, a city of the second class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year, and the first vote shall not occur until after July 1, 1985. If a majority of the active police and fire fighters considered as one (1) group, vote to enter the county employes retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes~~

~~retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes retirement system pursuant to KRS 78.531.~~] If the city's participation in the county employes retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and fire fighters who have not retained membership in the county employes retirement system pursuant to KRS 78.535(4).

Section 6. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of:

(a) Revenues of the city authorized by the city legislative body, which shall not be less than the amount contributed by the members of the police and fire departments;

(b) All rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department;

(c) Assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 1/2%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

(3) (a) After July 1, *1986* [~~1985~~], no new pension fund shall be created pursuant to this section. [~~Cities which become cities of the fourth class after July 1, 1985 may give their police and fire fighters membership in the county employes retirement system.~~]

(b) Cities which were covered by this section on or prior to July 1, *1986* [~~1985~~] shall provide for the retirement of police or fire fighters rehired after July 1, *1986* [~~1985~~] by placing such employes in the county employes retirement system.

(c) Cities which were covered by this section on or prior to July 1, *1986* [~~1985~~] shall place police or fire fighters newly hired after July 1, *1986* [~~1985~~] in the county employes retirement system. Such cities shall offer employes hired on or prior to July 1, *1986* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. *Employes shall make their election by June 1, 1986.*

(d) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions.

Section 7. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the

department of insurance as a health maintenance organization and which is qualified under the requirements of the United Stated department of health, education and welfare except as provided in subsection (3) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employes and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five (25) persons, for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(7) After July 1, *1986* [~~1985~~], no new retirement plan shall be created pursuant to this section. Any city, county, urban county or agency thereof which provided a retirement plan for its employes, pursuant to this section, on or prior to July 1, *1986* [~~1985~~] shall place employes hired after July 1, *1986* [~~1985~~] in the county employes retirement system. The city, county, urban county or agency thereof shall offer employes hired on or prior to July 1, *1986* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. *Employes shall make their election by June 1, 1986.* [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 8. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every three (3) years after an actuarial survey of the fund, and shall be in effect for a period of at least three (3) years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(8) After July 1, *1986* [~~1985~~], no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 1, *1986* [~~1985~~] shall place employes hired after July 1, 1985 in the county employes retirement system. The board shall offer employes hired on or prior to July 1, *1986* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. *Employes shall make their election by June 1, 1986.* [~~Selection of the alternate participation shall be optional for cities which provide a defined contribution pension plan.~~]

Section 9. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service, and may assess monthly such amount or percent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employe. The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employes.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and

may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(4) After July 1, *1986* [~~1985~~], no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 1, *1986* [~~1985~~] shall place employes hired after July 1, *1986* [~~1985~~] in the county employes retirement system. The board shall offer employes hired on or prior to July 1, *1986* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. *Employes shall make their election by June 1, 1986.* [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 10. KRS 96.180 is amended to read as follows:

(1) The board may, by proper order, provide a pension plan for its employes. In the event the board elects to provide a pension plan, it shall determine and formulate the form of pension plan to be used; determine and prescribe the eligibility of employes or their dependents to a pension or other benefits; determine and prescribe the monthly allowance or pension for employes or their dependents so determined to be eligible for a pension or benefits under the pension plan, not to exceed, however, a sum equal to one-half (1/2) of the monthly salary or wages of any employe at the time of his or her retirement; appoint a commission, which shall consist of three (3) members possessing the qualifications of a member of the board, for the administration of the pension plan and prescribe the powers and duties of such commission; appoint a trustee of the pension fund, fix the term of his office and the compensation of such trustee, and prescribe the powers and duties of such trustee and do and perform any other or further acts necessary to effectuate such pension plan. When a pension plan shall have been adopted, a commission appointed to administer such plan and a trustee of the pension fund appointed and qualified, the board may annually appropriate and pay out of its operating revenue, as a operating expense, into the sinking fund, a sum sufficient, when determined on a fair actuarial basis, to maintain the pension plan so adopted, not exceeding, however, a sum equal to one-half of one per cent (.5%) of the fair value of the utility property and assets. The board may assess, and cause to be paid into the pension fund monthly, such amount or per cent of the salary of all employes eligible under and electing to accept the pension plan as may be equitably determined on a fair actuarial basis, not to exceed, however, five per cent (5%) of the monthly salary of any employe. The trustee of the pension fund shall give such bond as required by the board, the cost of which shall be payable out of the pension fund. The trustee of the pension fund shall each year file with the board a report showing his actions and his accounts as such trustee.

(2) The board shall have full power to receive any and all funds of property which may be available or become available to the board or the city for use in the creation or maintenance of a pension plan for the employes of the board, including but not limiting the power to sign, execute and deliver such receipts, indemnity agreement or other writing which either the board or the city may be required to sign, execute and deliver to obtain any such fund or property for such purpose.

(3) (a) After July 1, *1986* [~~1985~~], no new pension fund shall be created pursuant to this section.

(b) Any board which provided a pension plan for its employes on or prior to July 1, *1986* [~~1985~~] shall place employes hired after July 1, *1986* [~~1985~~] in the county employes retirement system. The board shall offer employes hired on or prior to July 1, *1986* [~~1985~~] membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section. *Employes shall make their election by June 1, 1986.* [~~Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.~~]

Section 11. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose

duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments.

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and fire fighter's pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and may provide a retirement system for any of its employes, including police and fire fighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and fire fighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employes, or KRS 95.767 to 95.784 for its police and fire fighters.

(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employes unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section, *or unless the city adopts a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under section 401(a) of the internal revenue code of 1954 as amended.* If a city has adopted a retirement system but has not done so pursuant to *the options* [~~statutes~~] listed in *this subsection or in* subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employe covered thereby.

(6) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of fire fighters and assistant chief of fire fighters.

(b) Any classified employe in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of fire fighters, or assistant chief of fire fighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(7) After July 1, *1986* [~~1985~~], no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, *or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under section 401(a) of the internal revenue code of 1954 as amended.*

Section 12. Whereas it is necessary to require certain city pension systems to join with the county employes retirement system on July 1, 1986 because the plan or fiscal year begins on July 1, and it is necessary for employes who will have an option to join the county employes retirement system to make their decision by June 1, 1986, an emergency is declared to exist and this Act shall take effect upon passage by the General Assembly and signature by the Governor.

The Committee Amendment No. 1 to **HB 666** is as follows:

Amend printed copy of **HB 666**:

On page 2, line 19, after the word "*payments*" and before the word "*over*", insert the following "*at the rate actuarially assumed by the board*".

HB 738, AN ACT relating to pensions for police in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.290 is amended to read as follows:

(1) The city legislative body in cities of the first class may enact ordinances providing for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the fire fighter's pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess and collect contributions from the members for the benefit of the fund.

(2) There shall be a governing body of the policemen's pension fund, and a governing body of the fire fighter's pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be comprised of members of the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the fire fighter's pension fund.

(3) Any pension fund established under the provisions of this section shall be held and distributed for the purpose of paying pensions, *which shall include payments through the city to the county employes retirement system for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2), and transfer of pension assets through an investment contract for the purpose of ammortizing the unfunded prior service liability,* and for no other purpose, except that the governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting and legal services, the amount such governing board deems proper.

(4) Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.

(5) Effective August 1, 1986, the legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the county employes retirement system. All new employes who would have been granted membership in the local policemen's pension system shall be members of the county employes retirement system. All active members of the local policemen's pension system at the time of transition to the county employes retiremenet system may choose membership in the county employes retirement system or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the county employes retirement system. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall use assets in the local pension fund, other than assets necessary to pay benefits to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the county employes retirement system pursuant to this Act shall be granted hazardous duty coverage, and the city shall purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.300 through 90.420, *95.290,* 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.784, 95.851 through 95.884 and 96.180 notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.510 through 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, *95.290,* 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, *95.290*, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

The Committee Substitute to HB 738 is as follows:

HB 738, AN ACT relating to pensions for police in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.290 is amended to read as follows:

(1) The city legislative body in cities of the first class may enact ordinances providing for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the fire fighter's pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess and collect contributions from the members for the benefit of the fund.

(2) There shall be a governing body of the policemen's pension fund, and a governing body of the fire fighter's pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be comprised of members of the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the fire fighter's pension fund.

(3) Any pension fund established under the provisions of this section shall be held *or* [~~and~~] distributed for *any of the following purposes:*

(a) Paying pensions;

(b) Payments to the city for transfer to the county employes retirement system for alternate participation pursuant to KRS 78.530(3)(a) and KRS 78.531(2)(c);

(c) Transfer of pension assets through investment contract or other financial instrument for the purpose of amortizing unfunded service liability; and

(d) Payment from the city to the county employes retirement system for future pension contributions required pursuant to KRS 61.565.

Pursuant to the terms of this Act, if policemen of the city of the first class elect entry into the county employes retirement system and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed to the city for use by the city for any other purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (d) of this subsection. [~~the purpose of paying pensions and for no other purpose, except that~~] The governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting and legal services, the amount such governing board deems proper.

(4) Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.

(5) The legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the county employes retirement system. All new employes who would have been granted membership in the local policemen's pension system shall be members of the

county employes retirement system. All active members of the local policemen's pension system at the time of transition to the county employes retiremenet system may choose membership in the county employes retirement system or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the county employes retirement system. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local policemen's pension system and to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the county employes retirement system pursuant to this Act shall be granted hazardous duty coverage, and the city may, at its option, purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.

(6) Notwithstanding the provisions of KRS 61.565, which relate to the contributions required of participating employes, any city of the first class participating in the county employes retirement system hazardous duty pension plan which has in effect a collective bargaining agreement with a group of employes who participate in said plan, shall have the right to enter into agreement with its employes or with their respective collective bargaining representatives. This agreement may include, but is not limited to, specifications of what portion of the required employer contribution shall be borne by the participating employer and what portion shall be borne by the participating employe. This provision in no way modifies the employer's obligation to remit the contributions required by the county employes retirement system pursuant to KRS 61.565, whether such contributions are borne by the city or by its participating employes.

(7) With regard to the employer participation or employer contributions pursuant to KRS 61.565 as it relates to future pension contribution requirements or as it relates to payback period or interest charge for service liability cost under alternate participation, if any statute or any resolution of the appropriate state board of trustees having authority over employer participation or employer contribution grants any terms or conditions to any city of the second through the sixth class, or to any county, or to any urban-county government, which are more favorable in terms of participation than terms or conditions granted to any city of the first class, then said provisions for employer participation or contribution shall be available to the city of the first class, at its option and effective upon adoption by the city of the first class and notification to the county employes retirement system.

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.300 through 90.420, *95.290,* 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.784, 95.851 through 95.884 and 96.180 notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.510 through 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, *95.290,* 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, *95.290,* 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 3. Whereas, the interest rates available to any city of the first class through investments are dramatically decreasing for the purpose of amortizing the unfunded service liability, an emergency is declared to exist, and this Act shall become effective upon passage and approval by the Governor.

SB 207, AN ACT relating to coöperation between cities of the first class and counties containing such cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) Within one hundred and twenty (120) days of the effective date of this Act, there shall be entered into by each city of the first class and a county containing such city of the first class a cooperative compact pursuant to this Act. Such compact shall provide a framework for cooperation between the city and the county and shall contain such provisions as are required by this Act and may contain any other provisions which are not in conflict with this Act as may be agreed upon by the city and the county. The compact shall be executed by the mayor of the city of the first class with the consent of the legislative body of the city and the county judge/executive of the county with the consent of the fiscal court.

(2) The compact entered into pursuant to subsection (1) of this section shall be for a period of twelve (12) years, except that if any mandatory provision of the compact or this Act is adjudicated invalid or if any provision of this Act is amended or repealed by subsequent act of the General Assembly, the compact shall immediately terminate.

(3) Any compact entered into pursuant to this Act may be amended by the city and the county, provided that no such amendment shall conflict with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

In the compact entered into pursuant to Section 1 of this Act, a city of the first class and the county containing such city shall agree for the period the compact is in effect that:

(1) Any annexation by the city of the first class of unincorporated territory shall be pursuant to the procedures established by Section 6 of this Act;

(2) Occupational license fees collected by the city and the county shall be divided between the city of the first class and the county in accordance with the formula established by Section 4 of this Act;

(3) The control and responsibility for specific boards, commissions and agencies established or controlled by either the city or the county or by the city and the county jointly shall be in accordance with the provisions of the compact pursuant to Section 5 of this Act notwithstanding any provision of the Kentucky Revised Statutes to the contrary.

SECTION 3. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

As used in Section 4 of this Act, unless the context otherwise requires:

(1) "Base year collections" means the amount of combined collections received by the city of the first class and the county containing such city in calendar year 1985;

(2) "Collections" means the sums received (excluding penalties and interest) by a city of the first class and the county containing such city in a calendar year from its occupational license fee levy;

(3) "Combined inflation-adjusted base" means the base year collections of the city of the first class and the county containing such city adjusted by the increase or decrease in the consumer price index by using 1985 as the base year. Each year the combined inflation adjusted base shall be computed by multiplying the consumer price index in December of that year by base year collections and dividing the product by the December 1985 consumer price index; and;

(4) "Consumer price index" means the index for all urban consumers as published by the United States department of labor, bureau of labor statistics;

(5) "Occupational license fees" means license fees levied upon wages and net profits by a city of the first class pursuant to KRS 91.200 and by the county containing such city pursuant to KRS 68.180, but shall not include occupational license fees imposed for educational purposes pursuant to KRS Chapter 160, for mass

transportation programs pursuant to KRS 96A.310 to 96A.370 or license fees or taxes on insurance premiums for the privilege of engaging in the business of insurance.

SECTION 4. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) Effective the year the compact between the city and the county is entered into pursuant to this Act, the sinking fund of the city of the first class shall calculate the distribution of the combined collections from the occupational license fees in accordance with the formula established by this section instead of in accordance within which jurisdiction the situs of the person or business subject to the tax is located. This section shall not change the manner in which such license fees are levied or collected by such city and county and the fees therefor, but merely directs that the combined collections from such license fees be apportioned between the two (2) local governments better to reflect the sharing of responsibilities and obligations agreed to by such city and the county in the cooperative compact under this Act.

(2) If combined collections from occupational license fees in any calendar year are less than or equal to the base year collections, fifty-eight and seven hundred and thirty-five thousandths percent (58.735%) of such combined collections shall be apportioned to the city of the first class and forty-one and two hundred and sixty-five thousandths percent (41.265%) of such combined collections shall be apportioned to the county.

(3) If combined collections are greater than the base year collections but less than the combined inflation-adjusted base, the amount equal to the base year collections shall be divided between such city and county in accordance with subsection (2) of this section, and the remainder of combined collections shall be divided so that the city shall be apportioned fifty-nine and seven tenths percent (59.7%) of such remainder and the county shall be apportioned forty and three tenths percent (40.3%) of such remainder.

(4) If combined collections in any calendar year exceed the combined inflation-adjusted base, the amount of combined collections equal to the combined inflation-adjusted base shall be divided between the city and the county in accordance with subsection (3) of this section, ten percent (10%) of the combined collections in excess of the combined inflation-adjusted base shall be apportioned in accordance with subsection (5) of this section, and the remaining ninety percent (90%) shall be apportioned so that fifty-seven and two tenths percent (57.2%) of the remainder shall be apportioned to the city of the first class and forty-two and eight tenths percent (42.8%) of the remainder shall be apportioned to the county.

(5) Ten percent (10%) of the combined collections in excess of the combined inflation adjusted base shall be apportioned to the city of the first class or the county in accordance within which jurisdiction the growth in combined collections occurred. If the increase in combined collections is attributable to increased collections in both jurisdictions, the city and the county shall each be apportioned a percentage of the ten percent (10%) equal to the percentage of the increase in combined collections that is attributable to the increase in collections in its jurisdiction.

SECTION 5. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) When a city of the first class and a county containing such city have entered into a compact pursuant to this Act, such city and county may provide for the transfer and alteration of joint city-county entities as provided in Sections 8 through 23 of this Act.

(2) In making appointments to joint entities transferred or altered pursuant to this Act, the mayor and the county judge/executive, to the extent practicable, shall take into account the demographic characteristics of the county, including, but not limited to, race and sex.

SECTION 6. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) When a city of the first class, which has in effect a compact with the county pursuant to this Act, desires to annex unincorporated territory, the legislative body of the city shall enact an ordinance stating the intention of the city to annex. If an ordinance proposing to annex unincorporated territory has been enacted prior to the effective date of this Act and the ordinance annexing the territory to the city has not been enacted, then in order for the city to annex the territory during the time the compact is in effect, the legislative body of the city shall re-enact the ordinance only including the same territory as the original and stating the intention of the city to annex. Such ordinances shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory.

(2) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the city of ________?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex:

(a) If more than fifty percent (50%) of those voting on the question approve of the annexation, the legislative body may proceed to annex the territory. Within sixty (60) days of the certification of the election results in which more than fifty percent (50%) of those voting in the election approved the annexation, the legislative body of the city may enact an ordinance annexing to the city the territory described in the ordinance. Upon enactment of the ordinance the territory shall become part of the city for all purposes; or

(b) If fifty percent (50%) or less of those voting on the question approve the annexation, the ordinance proposing annexation shall become ineffectual for any purpose subject to the provisions of KRS 81A.460.

(3) Once the ordinance stating the intention of the city to annex an area has been given its first reading or enacted by the city legislative body, no part of such area may be incorporated or be annexed by another city, unless such incorporation or annexation is pending at the time the ordinance is given its first reading, until the annexation proposal by the city of the first class is defeated pursuant to subsection (2) of this section or until the ordinance is withdrawn or repealed or amended as to the area to be annexed. This subsection shall apply to any proposing ordinance which has had a first reading or has been enacted as of January 1, 1986. Notwithstanding anything to the contrary in this subsection, any annexation by a city other than the first class or incorporation prior to January 1, 1986 shall not be nullified by the application of this Act; provided, however, that any city of the first class shall retain any legal annexation priorities which existed on January 1, 1986 to the territory so annexed or incorporated. All pending litigation challenging annexation of a specific unincorporated territory by the city of the first class arising from ordinances proposing to annex such territory enacted prior to the effective date of this Act shall, at the discretion of the court, be remanded on the docket of the appropriate court without prejudice during the term of the compact.

Section 7. KRS 81A.010 is amended to read as follows:

(1) The boundaries of cities of the first class, *except for a city which has in effect a compact with the county pursuant to this Act,* shall remain as established by law until changed as provided in KRS 81A.010, 81A.020, 81A.440 or through merger with a contiguous city pursuant to KRS 81.410-81.440. Whenever *such* [~~a~~] city of the first class desires to annex any unincorporated territory or to reduce the boundaries of the city, the city legislative body may enact an ordinance, defining accurately the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published pursuant to KRS Chapter 424. In not less than thirty (30) days after the enactment of the ordinance, if the publication has been made and no petition has been filed in the circuit court as provided in KRS 81A.020, the city legislative body may enact another ordinance annexing to the city or striking from the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city, or be stricken from the city.

(2) The boundaries of any city of the first class which has in effect a compact with the county pursuant to this Act shall remain as established by law unless changed pursuant to the procedure set out in Section 6 of this Act. Upon the termination of such compact, boundary changes shall be governed by subsection (1) of this section.

Section 8. KRS 65.540 is amended to read as follows:

(1) The members of the authority shall be appointed as follows:

(a) If the authority is established by a city, such members shall be appointed by the mayor of the city;

(b) If the authority is established by a county, such members shall be appointed by the county judge/executive *with the approval of the fiscal court*;

(c) If the authority is established as a joint city-county riverport authority, three (3) members shall be appointed by the mayor and three (3) members by the county judge/executive to the terms as provided in subsection (2) of this section, and in addition, the mayor may appoint himself or a member of the city legislative body as one (1) additional member of the authority and the county judge/executive may appoint himself or a member of the fiscal court as one (1) additional member of the authority for a term of two (2) years, provided that such persons may not serve on the authority after the expiration of their term as an elected official;

(d) If a combination of cities and/or counties establishes a joint riverport authority, the mayors and/or county judges/executive involved shall jointly choose six (6) members to the terms as provided in subsection (2) of this section, and shall jointly choose successors and may upon agreement appoint a mayor or a member of a city legislative body and a county judge/executive or a member of a fiscal court as two (2) additional members of the authority for terms of two (2) years provided that such persons may not serve on the authority after the expiration of their term as an elected official.

(2) Except as provided in subsection (1)(c) and (1)(d) of this section members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(3) A riverport authority member may be replaced by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority shall submit a written statement to the riverport authority setting forth the reasons for removal, and the statement shall be read at the next authority meeting, which shall be open to the general public. The member so removed shall have the right of appeal in the circuit court. Except as provided in subsection (1)(c) and (1)(d) of this section no riverport authority member shall hold any official office with the appointing authority.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the terms of the members of the authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that one-third of the terms expire in one (1) year, one-third expire in two (2) years, and one-third expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 9. KRS 65.570 is amended to read as follows:

(1) Members of the authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the authority. The authority shall, upon the appointment of its members, organize and elect officers. The authority shall choose a chairman and vice-chairman who shall serve for terms of one (1) year. The authority may fix a salary for the secretary-treasurer, and the secretary-treasurer shall execute an official bond to be set and approved by the authority, and the cost thereof shall be paid by the authority.

(2) The authority may employ or retain necessary counsel, agents, employes or other persons to carry out its purposes, work and functions and may prescribe such rules and regulations as it deems necessary.

(3) The secretary-treasurer shall keep the minutes of all meetings of the authority and shall also keep a set of books showing the receipts and expenditures of the authority. He shall preserve on file duplicate vouchers for all expenditures and shall present to the authority, upon request, complete reports of all financial transactions and the financial condition of the authority. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the authority was created. He shall transmit at least once annually a detailed report of all acts and doings of the authority to the legislative body or bodies by whom the authority was created.

(4) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the secretary-treasurer or executive director, as the case may be, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court as provided in KRS 67.040; fiscal court shall fix the salary.

Section 10. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject

to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. In counties containing a city of the first class, of the three (3) members appointed by the county judge/executive there shall be representatives of each city of the fourth class which uses metropolitan sewer district treatment facilities for treatment of all of the sewage generated within the city. Such appointment shall be subject to approval by the fiscal court. Not more than four (4) members of the board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid seventy-five dollars ($75.00) for each meeting of the board attended by such member, and fifty dollars ($50.00) for attendance at any meeting of a committee which has been authorized or duly appointed by the board. But in no instance shall any member of said board be paid for more than one meeting per day, nor more than eighteen hundred dollars ($1800) during any fiscal year of the board, nor for more than twenty-four (24) board meetings and twenty-eight (28) committee meetings held during any fiscal year of said board.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the terms of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor shall adjust the terms of the sitting members appointed by the mayor so that the terms of two (2) members expire in one (1) year, the term of one (1) member expires in two (2) years, and the term of one (1) member expires in three (3) years; the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members appointed by the county judge/executive so that the term of one (1) member expires in one (1) year, the term of one (1) member expires in two (2) years and the term of one (1) member expires in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 11. KRS 76.060 is amended to read as follows:

(1) The board shall, in July of each year, elect from its members a chairman and a vice-chairman, who shall be of different political party affiliation. It shall employ a secretary-treasurer and a chief engineer, neither of whom is a member of the board. The secretary-treasurer and the chief engineer may be removed by the board for cause, after hearing by it and after at least ten (10) days' notice in writing has been given to the secretary-treasurer or chief engineer, as the case may be, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the board is final. The secretary-treasurer and the chief engineer shall each devote his entire time and attention exclusively to the services of the board. The board may employ, and remove at pleasure, professional and technical advisers, experts, and other employes, skilled or unskilled, as it deems requisite for the performance of its duties.

(2) The board shall require the secretary-treasurer and the chief engineer each to execute a bond and may

exact from such of its other officers and employes bonds as it deems expedient. All bonds shall be payable to the district in the sums as the board may fix, with approved corporate surety, and premiums therefor shall be paid by the district. The bonds shall obligate the makers thereof to faithfully perform the duties of their respective offices and positions and to fully account for and pay over all money, property, or other thing of value of the district, which may come to their hands, respectively. The board shall fix the salaries and compensation of the officers and employes it engages, which salaries and compensation, however, shall be in line with that paid by the city and county for similar services.

(3) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the executive director, secretary-treasurer and chief engineer shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040.

Section 12. KRS 77.065 is amended to read as follows:

(1) The members of the fiscal court of a county shall be, and they are hereby designated as, and empowered to act as, ex officio the air pollution control board of the air pollution control district in such county.

(2) All county officers, their assistants, clerks, deputies and employes, and all other county employes shall be ex officio officers, assistants, deputies, clerks and employes respectively of the air pollution control district in the county in which they are employed. Except as otherwise provided in this chapter, they shall perform respectively the same various duties for the air pollution control district as for the county without additional compensation, in order to carry out the provisions of this chapter.

(3) The provisions of this section shall not be applicable to any county containing a city of the first or second class.

(4) Notwithstanding any provision of this chapter to the contrary, whenever a city of the first class and a county containing such city have in effect a compact under this Act, the county shall provide all staff support, including a secretary-treasurer and an air pollution control officer, to the air pollution control board through county officers, assistants, clerks, deputies and employes. In such case, the staff of the air pollution control board, including the secretary-treasurer and the air pollution control officer, shall be deemed county employes and shall be subject to the control of fiscal court. At the time the compact takes effect, the employes of the air pollution control district shall be transferred to the service of the county government; provided that all such employes who are in the classified service at such time shall be continued in the classified service administered by county government.

Section 13. KRS 77.070 is amended to read as follows:

(1) In a county containing a city of the first or second class, the air pollution control board of the air pollution control district shall consist of seven (7) members, three (3) of whom shall be appointed by the county judge/executive, subject to the approval of the fiscal court, and four (4) of whom shall be appointed by the mayor of the city of the first or second class within such county. The mayoral appointments shall be subject to the approval of the legislative body of the city.

(2) The mayor shall appoint, subject to the approval of the legislative body of the city, one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and one (1) member for a term of four (4) years, and upon the expiration of each of said terms respectively, and thereafter, the term of each of such members shall be four (4) years, and until their successors are appointed and qualified.

(3) All air pollution control board members appointed pursuant to this section must be freeholders within the district; those appointed by the county judge/executive must be residents of such county, and those appointed by the mayor must be residents of such city.

(4) Not more than four (4) of the seven (7) board members appointed pursuant to this section shall be of the same political party affiliation, nor shall an officer or employe of such city or county, whether holding a paid or unpaid position, be eligible for appointment to the board.

(5) A member of the air pollution control board is eligible to succeed himself. A vacancy in the membership shall be filled by an appointee of the mayor or of the county judge/executive as the case may be, for the unexpired portion of the term. An appointee to a vacancy shall have the same qualifications as any regularly appointed member.

(6) Any member of the board appointed by a mayor may be removed, for cause, after a hearing, by the legislative body of such city, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the legislative body shall be final and removal results in vacancy in such office.

(7) Any member of the board appointed by a county judge/executive may be removed, for cause, after a hearing, by the fiscal court of such county, and after ten (10) days notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the fiscal court shall be final and removal results in vacancy in such office.

(8) As used in this section "mayor" means the chief executive of the city whether the official designation of his office is mayor, city manager, or otherwise.

(9) Notwithstanding subsections (1) and (2) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the air pollution control board shall consist of seven (7) members, four (4) of whom shall be appointed by the county judge/executive with the approval of the fiscal court and three (3) of whom shall be appointed by the mayor, with the approval of the legislative body, of the first class city within such county. The terms of such members shall be three (3) years, and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the term of one (1) of each of their appointments expires in one (1) year, the term of one (1) of each of their appointments expires in two (2) years and the term of one (1) of each of their appointments expires in three (3) years. The term of the then remaining member who was previously appointed by the mayor shall terminate immediately and the county judge/executive with approval of the fiscal court shall appoint a member for a one (1) year term. Upon the expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 14. KRS 80.450 is amended to read as follows:

(1) The members shall constitute the housing authority. A majority of the members shall constitute a quorum for the purpose of conducting business and exercising powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the members present, unless in any case the bylaws of the authority require a larger number. An authority shall select from among its members a chairman and a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and other employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or a county for which it is created, or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employes such powers or duties as it deems proper.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the secretary, who shall be the executive director, shall be appointed by and serve at the pleasure of the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040.

Section 15. KRS 80.480 is amended to read as follows:

(1) For inefficiency or neglect of duty or misconduct in office, a member may be removed by the authority appointing him, but a member shall be removed only after he has been given a copy of the charges against him at least ten (10) days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. In the event of the removal of any member, a record of the proceedings, together with the charges and findings thereon, shall be filed as required for the certificate of appointment of such member.

(2) Notwithstanding subsection (1) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the terms of the members of the authority shall be for three (3)

years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that two (2) shall expire in one (1) year, two (2) shall expire in two (2) years and one (1) shall expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 16. KRS 96A.040 is amended to read as follows:

(1) The business, activities and affairs of a transit authority shall be managed, controlled and conducted by a board consisting of members appointed as follows:

(a) If the authority is established by one (1) city alone, or by a county alone, the members shall be eight (8) in number and shall be appointed by the appointing authority of such city or county;

(b) If the authority is established by joint proceedings of two (2) public bodies, the membership shall be eight (8) in number, four (4) of whom shall be appointed by the appointing authority of each of such public bodies;

(c) If an authority is created and established by joint proceedings of more than two (2) public bodies, the membership shall be eight (8) in number, plus one (1) additional member for each participating public body in excess of two (2), and the members thereof shall be appointed by the appointing authorities of the participating public bodies in such manner as may be set forth in the joint proceedings;

(d) If an authority is created and established, and subsequently one or more other public bodies are permitted to join therein, the membership of the board may be enlarged, with the concurrence and approval of the governing bodies of the public bodies theretofore participating, by not more than one (1) additional member for each additional public body so permitted to join the authority.

(2) No officer or employe of any public body represented in the creation, establishment, or enlargement of an authority shall be eligible for appointment to the board.

(3) After the effective date of the creation of an authority as provided in this chapter, the appointing authority or the appointing authorities, as the case may be, shall, in such manner as may be specified in the proceedings or joint proceedings, appoint at least two (2) members for terms of one (1) year, at least two (2) members for terms of two (2) years, at least two (2) members for terms of three (3) years, and the remaining number for terms of four (4) years; such terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment. Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of four (4) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment.

(4) Any member of the board may be removed by his or her appointing authority for inefficiency, neglect of duty, malfeasance, conflict of interest, or want of mental or physical capacity to serve. Any appointing authority exercising the power to remove a member of the board shall submit to the board a written statement setting forth the reasons for removal. Notice shall be given to the member named in such statement; a hearing, if requested, shall be conducted within thirty (30) days before the members of the board who are not the subject of such removal proceedings; a record of the hearing shall be made by the secretary-treasurer of the board; and the member named in such removal notice may appeal any adverse decision, within ten (10) days after the rendering thereof, to the circuit court of any county which is served in whole or in part by the facilities of the transit authority, such appeal to be perfected by filing with the clerk of such court a copy of the removal proceedings certified by the secretary-treasurer of the board. The court, upon application of the member removed, may in its discretion order that the original record of the proceedings be filed with the clerk as the basis for such appeal. There shall be a right of appeal to the Court of Appeals.

(5) Members of the board shall be allowed reasonable expenses necessarily incurred by them in the conduct of the affairs of the authority. Compensation may be paid to members of the board if so provided in the proceedings or joint proceedings, subject to such limitations as may be set forth therein.

(6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 17. KRS 96A.070 is amended to read as follows:

(1) The board shall, within sixty (60) days after the appointment of its entire initial membership, and thereafter in July of each year, elect from its members a chairman and a vice chairman. It may, in its discretion, employ an executive director and a secretary-treasurer, neither of whom shall be a member of the board; Provided, however, if the creation and establishment of the authority is shown by the provisions of the proceedings or joint proceedings to have been undertaken only on a stand-by basis, the board may defer the employment of an executive director and may, on an interim basis, designate a secretary-treasurer from its own membership.

(2) The board may, in its discretion, employ necessary legal counsel and other agents and employes to carry out its work and functions, and may from time to time prescribe and alter such rules and regulations as it may deem necessary.

(3) The executive director, if and when employed in the discretion of the board, shall be experienced and knowledgeable in the field of transportation; and if and when employed, such executive director shall be the chief executive officer of the authority, having such powers and duties as the board may prescribe. Such executive director may recommend the establishment or alteration of rules and regulations, and of rates and charges for use of the services and facilities of the mass transportation system of the authority; but action in such respects, and in the issuance of revenue bonds or mortgage bonds of the authority, and in requesting the issuance of general obligation bonds by other public bodies for the benefit of the authority, and in authorizing leases of the properties of the authority for financing purposes, shall be taken by the board, or by the executive committee of the board if properly thereunto authorized.

(4) The secretary-treasurer shall keep the minutes of all meetings of the board, and shall also keep a set of books showing the receipts and expenditures of the board. He shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. Such books and vouchers shall at all times be subject to examination by the governing body of any public body by which the authority was created or enlarged. He shall transmit at least once annually a detailed report of all acts and doings of the board to the public body or bodies by whom the board was created. He shall cause all moneys of the authority coming into his hands to be deposited in one or more financial institutions, as designated from time to time by the board.

(5) The board shall require its secretary-treasurer, and its executive director, if and when such executive director shall be employed, each to execute bond in favor of the authority, in such respective penal sums as the board may fix, in favor of the authority, and conditioned upon faithful performance of the duties of such offices and full accounting to the authority. Each such bond shall be with corporate surety, provided by a corporate surety company qualified to transact business in Kentucky and approved, in each instance, by the board. The board may in like manner require similar bonds, with corporate surety, to be given by other officers, agents and employes in such manner and in such penal sums, as it may specify from time to time. Premiums payable to sureties upon such bonds shall be paid by the authority and may be chargeable as an operating expense of the authority.

(6) The board shall fix the salaries, wages or other compensation of the officers, agents and employes whom it may engage from time to time; in each case within such limitations, if any, as may be prescribed in the proceedings or joint proceedings set forth in the establishment of the authority, or as such proceedings may be amended; but such salaries, wages or other compensation shall constitute obligation of the authority only, and shall be payable from the authority's revenues and any other available resources, and shall not constitute obligations of any city or county participating in the creation and establishment, or subsequent enlargement, of the authority.

(7) The board may, by resolution duly adopted and spread at large upon its public records, establish an executive committee, composed of such members of the board as may be specified in such resolution, and may authorize such executive committee to exercise in intervals between board meetings any powers of the board except those powers which are expressly required by this chapter or by other controlling provisions of law to be exercised by the board.

(8) The board may create such other committees of its members as it may deem necessary or proper; but the same shall be advisory in nature and shall report to the board or to the executive committee, and shall not be authorized to take any independent action except in such advisory capacity.

(9) Notwithstanding other provisions of this section, when a city of the first class and a county containing

such city have in effect a compact under this Act, the executive director and a secretary-treasurer or any individual, corporation or partnership, either by contract or employment, who serves as executive director or secretary-treasurer in the management of the affairs of the board, shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of fiscal court pursuant to KRS 67.040.

Section 18. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain and conduct a park and recreation system or systems, which may include but shall not be limited to the establishment, maintenance and conduct of zoos and museums, the legislative bodies of such counties, cities or other districts involved may by ordinance, order or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050. This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance and conduct of museums.

(2) Such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, and shall elect from its membership a chairman, secretary and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his duties sufficient in amount to cover funds coming into his hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

(5) Notwithstanding subsections (1), (2) and (3) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

Section 19. KRS 100.157 is amended to read as follows:

(1) Any member of a planning commission may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the planning commission shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the planning commission, which shall be open to the general public. The member so removed shall have the right of appeal in the circuit court.

(2) Notwithstanding subsection (1) of this section, and KRS 100.143, when a city of the first class and a county containing such city have in effect a compact pursuant to this Act, the terms of the appointed members on the commission shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of one (1) of each of their appointments expire in one (1) year, the term of one (1) of each of their appointments expire in two (2) years and the term of one (1) of each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 20. KRS 100.217 is amended to read as follows:

(1) Before any zoning regulation may have legal effect within the planning unit, a board or boards of

adjustments shall be appointed for the planning unit as stated in the regulation or agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment.

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies.

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustments shall, before entering upon their duties, qualify by taking the oath of office prescribed by section 228 of the constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustments.

(8) Any member of a board of adjustments may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustments shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustments, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.

(9) *Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to this Act, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third plus one (1) of the members expire in one (1) year, the terms of one-third of the members in two (2) years and the terms of one-third of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.*

(10) Each board of adjustments annually shall elect a chairman, vice-chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of his term.

Section 21. KRS 173.105 is amended to read as follows:

(1) The fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class, may contract with the board of trustees of the free public library of any such city for the purpose of granting to the residents and schools of such county the same privileges afforded by such library to residents and schools in the city.

(2) *Notwithstanding any provisions of Kentucky Revised Statutes to the contrary, when the fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class have in effect a compact under this Act, the city and county shall by joint action create a joint city/county department for the purpose of providing a free public library. In such event, the board of trustees shall be dissolved as a corporate entity and all assets and liabilities of the board of trustees shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.*

(3) If the fiscal court enters into a contract pursuant to subsection (1) of this section, then the county judge/executive shall have the authority to appoint one-half (1/2) of the positions on the board of trustees of the free public library. Appointments shall be made for four (4) year terms. Each appointee must be at the time of his appointment a taxpayer and qualified voter in the county.

(4)[~~(3)~~] The county judge/executive shall make the appointments authorized by subsection *(3)*[~~(2)~~] of this section in the following manner. On March 31 of 1978 and March 31 of 1980, he shall appoint persons to fill two of the vacancies which occur. On March 31 of 1979 and March 31 of 1981, he shall appoint a person to fill one vacancy which occurs. He shall continue to make the appointments to these positions when a vacancy occurs or a term expires, subject to subsection *(5)*[~~(4)~~] of this section.

(5)[~~(4)~~] If the contract between the fiscal court and a free public library terminates or ceases to be in effect, the county judge/executive shall no longer have the authority to appoint persons as trustees to the board of the free public library and the mayor may terminate the appointment of trustees appointed by the county judge/executive and appoint persons to fill their unexpired terms.

(6)[~~(5)~~] The fiscal court may annually appropriate money out of the county treasury to the maintenance and support of the library.

(7)[~~(6)~~] Money so appropriated by the fiscal court may be expended by the board of trustees of the free public library in the establishment of branch stations in the county outside the city of the first class, under regulations of the board of trustees.

Section 22. KRS 212.350 is amended to read as follows:

(1) In each county of the commonwealth of Kentucky in which there is located a city of the first class, there is hereby created a board of health which board shall be a body politic and corporate, and shall be known as the "________ (name of city of the first class) and ________ (name of county) County board of health" hereinafter called the "board," which board shall have jurisdiction throughout such county, including all municipalities in said county with respect to and in accordance with the provisions of KRS 212.350 to 212.620. Wherever the words "city" and "mayor" are used in KRS 212.350 to 212.620 they shall mean such city of the first class, and the mayor thereof. Said board may, in its corporate name, sue and be sued, contract and be contracted with and acquire real, personal and mixed property by deed, purchase, gift, devise, lease, condemnation or otherwise, and dispose of same; and may make appropriate rules and regulations and do all things reasonable or necessary effectively to carry out the work and properly to perform the duties intended or required by KRS 212.350 to 212.620. When and after the board herein created is organized as herein provided, and except as otherwise provided by law, said board shall succeed to and be vested with all of the functions, obligations, powers and duties now being exercised by the county board of health of such county, any department of public health of such city, and by any board of tuberculosis hospital in such county; and thereupon said county board of health and said department of health and said board of tuberculosis hospital shall cease to exist, and all laws and amendments of said laws, relating to and governing the aforesaid county board of health, department of public health, and board of tuberculosis hospital, in conflict with the provisions of KRS 212.350 to 212.620, shall, to the extent of such conflict, stand and be repealed.

(2) Notwithstanding KRS 212.350-212.625, when a city of the first class and a county containing such city have in effect a compact under this Act, the county and such city of the first class shall agree that the county shall provide all staff support, including a director of health, to the board of health through county officers, assistants, clerks, deputies and employes. In such case, all officers, employes and staff of the board of health and the department of health shall be deemed county employes and shall be subject to the control of fiscal court. At the time the compact takes effect the officers, employes and staff of the board of health and the department of health shall be transferred to the service of county government; provided that all such employes who at such time are in the classified service shall be continued in a classified service administered by county government. All functions, obligations, powers and duties now vested in the board of health shall continue to be vested in the board unless changed by ordinance of the fiscal court of such county.

Section 23. KRS 212.380 is amended to read as follows:

(1) Said board shall be composed of ten (10) members, two (2) of whom shall be the mayor of such city, and the county judge/executive of such county, as members ex officio, and *four (4)* [~~eight~~] of whom shall be appointed by the [~~joint action of the~~] mayor of such city and *four (4) of whom shall be appointed by* the county judge/executive of such county *with the approval of the fiscal court*. Each appointive member shall be not less than thirty (30) years of age, intelligent, discreet, and shall have been a continuous resident of such county for at least two (2) years prior to the date of his or her appointment. At least one (1) and not more than three (3) of

said appointive members shall be physicians, one (1) of said appointive members shall be a dentist, and at least one (1) of said appointive members shall be a registered nurse. All appointive members shall be eligible for reappointment.

(2) At the expiration of each of the terms of office of said eight (8) appointive members, the successor to each member shall be appointed by said county judge/executive and said mayor for a term of office of four (4) years and until his successor is appointed and qualified.

(3) The two (2) appointments which increase the appointed members from six (6) to eight (8) shall both occur on July 1, 1974, one (1) of which shall be for a term expiring on June 30, 1978, the other of which shall be for a term expiring on June 30, 1975. Each subsequent appointment to the board shall be for a term of four (4) years.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under this Act, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) each of their appointments expire in one (1) year, the term of one (1) each of their appointments expire in two (2) years and the term of one (1) each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 24. If any provision of this Act is held to be unconstitutional or invalid, such provision shall not be severable but the entire act shall be invalidated, because it is the intention of the General Assembly that the provisions of this Act are so essentially and inseparably connected with and dependent upon every other provision that the Act would not have been enacted without the inclusion of every provision herein.

The Committee on Business Organizations and Professions reported HB 329 with Committee Substitute attached thereto, HB 553 with Committee Amendment attached thereto, and SB 208 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 329, AN ACT relating to engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the state board of registration for professional engineers and land surveyors.

(2) "Engineer" means a person who is qualified by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, to engage in the practice of professional engineering.

(3) "Engineering" includes any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and waters, and the review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work either public or private, in connection lith any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems or projects with which the public welfare or the safeguarding of life, health or property is concerned, when such professional service requires the application of engineering principles and data. It does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, such as locomotive, stationary, marine or power plant operators, nor work embraced within the practice of land surveying.

(4) "Practice of engineering" includes all professional services included in subsection (3) of this section, together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations.

(5) "Land surveying" means and includes any services requiring the *special knowledge and application of the*

principles of mathematics and related sciences, and the relevant requirements of law for the purpose of; the determination of the location of land boundaries and land boundary corners, *area* and *the* incidental topography *of any tract of land*; the [~~preparation of maps showing the shape and area of tracts of land and their~~] subdivision *of any tract of land* into smaller tracts, *including the conceptual layout of the alignment and grade of streets incidental to the subdivision thereof; the determination of the horizontal and vertical positions of natural and man-made features in the air, on the surface or subsurface of the earth including underground workings and beneath the surface of bodies of water, whether such features be existing or planned*; the preparation of maps *and plans showing the proposed location of improvements and the planimetric and topographic features of a tract of land; the preparation of maps and plans* showing the layout of roads, streets and rights-of-way; *the performance of such services as consultation, investigation, and evaluation of land divisions; the preparation of descriptions for use in instruments of conveyance of real property;* and the preparation of official maps or plats of land within this state.

(6) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying.

(7) "Practice of land surveying" *shall include the performance of any professional service included in subsection (5) of this section.* [~~or~~] "Offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out to the general public as possessing the ability and qualifications to perform land surveying within the terms of KRS 322.010, 322.200, 322.230 to 322.250, and 322.420 to 322.460.

(8) "Negligence" is herein defined as the failure by a licensee to utilize due care in the performance of the normally recognized duties of his profession.

(9) "Incompetence" is herein defined as the physical or mental incapacity or inability of a licensee to perform the normally recognized duties of his profession.

Section 2. KRS 322.030 is amended to read as follows:

KRS 322.020 shall not apply to:

(1) The engaging in engineering *or land surveying* as a pupil of or under the direction of a licensed engineer *or land surveyor*, if such practice does not include responsible charge of design or supervision [~~as a principal~~];

(2) The practice of officers and employes of the United States government while engaged in engineering for the government;

(3) The practice of engineering by a person on property leased or owned by the person unless the practice involves the public safety or public health; or to the performance of engineering that relates solely to the design or fabrication of manufactured products;

(4) An engineer *or land surveyor* engaged solely as an officer or employe of a privately owned public utility or of a corporation engaged in interstate commerce as defined in the interstate commerce act (24 Stat. 379) as amended;

(5) [~~The practice of any elective officer of this state or any political subdivision of this state while carrying out the duties of the office to which he was elected; or~~

~~(6)~~] A licensed architect who engages in engineering practice as an incident to the practice of his own profession.

Section 3. KRS 322.040 is amended to read as follows:

(1) Compliance with the requirements of any one of paragraphs (a) and (b) of this subsection shall qualify an applicant for a license as a professional engineer:

(a) A graduate of an engineering curriculum of four (4) years or more approved by the board and with a specific record of an additional four (4) years or more of progressive experience in engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering. Each applicant must pass a written examination in the fundamentals of engineering acceptable to the board and a written examination in the principles and practice of engineering acceptable to the board. The board may admit to the fundamentals of engineering examination applicants enrolled in the final year of an undergraduate engineering curriculum. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice engineering in this Commonwealth, provided the applicant is otherwise qualified. In counting years of experience, the board may give credit, not in excess of one (1) year, for satisfactory graduate study in engineering*; and*[~~.~~]

(b) Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, and a specific record of eight years or more of experience in engineering work of a character satisfactory to the board. The record of experience shall indicate that the applicant is competent to practice engineering. Engineers in training who are currently in the process of acquiring their experience will be allowed to take their professional engineering examination at the time when their experience requirements are met. Applications for engineers in training will be accepted until July 1, 1983, and those who are granted this status will be allowed to be licensed under this paragraph. No further application will be accepted after July 1, 1983, and licensing under this paragraph shall cease when all the candidates accepted shall meet the requirements.

(2) Compliance with the requirements of any one of paragraphs (a), (b) or (c) of this subsection shall qualify an applicant for a license as a land surveyor:

(a) Any person holding a certificate of registration to engage in the practice of land surveying issued to him by the proper authorities of any state, territory, possession of the United States, District of Columbia, or any foreign country, based upon requirements and qualifications appearing in his application, which, in the opinion of the board, are equal to, or higher than, the requirements required to obtain a license in this state, may be registered and licensed to practice land surveying in this state*;*[~~.~~]

(b) Any graduate from *a* [~~an accredited engineering or~~] surveying curriculum of not less than four (4) years, at an institution approved by the board, followed by not less than four (4) years of *progressive experience in* land surveying [~~experience~~] under the direct supervision of a [~~regularly~~] licensed and *practicing* [~~registered~~] land surveyor, and who shall pass a written examination, to be formulated by the board, designed to demonstrate that he is qualified to practice land surveying, shall be granted a license and registered as a land surveyor*; and*[~~.~~]

(c) Any person possessing eight (8) or more years of *progressive* active experience in the practice of land surveying under the direct supervision of a licensed and *practicing* [~~registered~~] land surveyor, and who shall pass a written examination, to be formulated by the board, designed to show that he is qualified to practice land surveying, shall be licensed and registered as a land surveyor.

(3) In the consideration of the qualifications of applicants, engineering teaching may be construed as engineering experience.

(4) *As it may apply to the experience qualifications for engineering or land surveying,* the satisfactory completion of each year of an approved curriculum in engineering *or land surveying* in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience required by paragraph (b) of *subsections* [~~subsection~~] (1) *and (2)* of this section. Graduation in a curriculum other than engineering *or land surveying* from a college or university of recognized standing may be considered as equivalent to two (2) years of experience required by paragraph (b) of *subsections* [~~subsection~~] (1) *and (2),* but no applicant shall receive credit for more than four (4) years of experience because of undergraduate educational qualifications.

(5) The mere execution as a contractor of work designed by an engineer or the supervision of the construction of such work as a foreman or superintendent shall not be considered practice in engineering.

(6) Any person having the necessary qualifications prescribed in *subsections* [~~subsection~~] (1) *and (2)* of this section shall be eligible for a license although he may not be practicing his profession at the time of making his application.

Section 4. KRS 322.070 is amended to read as follows:

Applications for licenses shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five (5) references, of which at least three (3) shall be from engineers *or land surveyors as may be appropriate,* having personal knowledge of the applicant's engineering *or land surveying* experience.

Section 5. KRS 322.080 is amended to read as follows:

(1) Examinations shall be held at times and places determined by the board.

(2) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering *or surveying* works so as to insure the safety of life, health and property.

Section 6. KRS 322.190 is amended to read as follows:

Any person or any organization may prefer *written* charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of professional practice and conduct against any licensee. [~~The charges shall be in writing and shall be sworn to by the person or officer of the organization making them.~~] They shall be filed with the secretary-treasurer of the board.

Section 7. KRS 322.200 is amended to read as follows:

(1) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six (6) months after the date on which they are preferred. Provided, however, that a charged party may waive his right to a hearing within six (6) months. The time and place of the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the licensee at least thirty (30) days before the date fixed for the hearing.

(2) At any hearing, the accused may appear personally and by counsel, cross-examine witnesses appearing against him and produce evidence and witnesses in his own defense. If five (5) or more members of the board vote in favor of finding the accused guilty, the board shall *impose a fine or impose such penalty, including revocation or suspension of the license* [~~revoke his license, or suspend the same~~] for such length of time as they may in the exercise of a sound discretion deem to be reasonable. Conduct of the hearing shall be governed by the administrative rules and regulations of the board, a copy of which shall be made available to every *concerned* party *prior to the* [~~scheduled for a~~] hearing.

Section 8. KRS 322.240 is amended to read as follows:

Each appointed member of the board shall be a citizen of the United States and shall have been a resident of this state for five (5) years. Six (6) members of the board shall have been engaged in the practice of the profession of engineering *or land surveying* for at least twelve (12) years, and shall have been in responsible charge of *land surveying or* important engineering work or responsible charge of engineering *or land surveying* teaching for at least five (5) years. One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At no time shall more than two (2) members whose qualifications are based on responsible charge of engineering *or land surveying* teaching or more than two (2) members from the faculties of the engineering *or land surveying* colleges of the state *to* be appointed to the board. The *licensed* [~~engineer~~] members of the board shall have been licensed [~~engineers~~] in Kentucky for at least four (4) years prior to the date of their appointments. [~~In addition to the foregoing qualifications,~~] Two (2) members of the board shall be licensed *as* land surveyors *and shall be designated as land surveyor members.*

Section 9. KRS 322.250 is amended to read as follows:

(1) The governor shall appoint not more than two (2) full-term members per year, with the exception of 1973, when he shall appoint four (4) members, two (2) for terms of three (3) years and two (2) for the full four-year term.

(2) Every member of the board shall receive a certificate of his appointment from the governor.

(3) Every appointment to the board shall be made from a list of not less than three (3) nominees to be submitted to the governor by*;*

(a) The Kentucky society of professional engineers *for engineer member vacancies to the board, and*

(b) The Kentucky association of professional surveyors for surveyor member vacancies to the board.

(4) Every unexpired term shall be filled only for the remainder of that term.

(5) The nominations shall be submitted to the governor at least thirty (30) days prior to the appointment date.

(6) The term of office of all full term appointments shall begin January 1.

(7) The appointees to the board shall be limited to not more than two (2) consecutive terms.

Section 10. KRS 322.290 is amended to read as follows:

(1) The board shall:

(a) Administer this chapter.

(b) Adopt an official seal.

(c) Provide suitable office quarters at its own expense.

(2) The board may:

(a) Adopt and amend all bylaws and rules of procedure, consistent with the Constitution and laws of the state, and reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

(b) Employ any clerk or other assistants necessary for the proper performance of its work.

(c) Employ any legal assistants that it considers necessary.

(d) Make expenditures for any purpose that it considers reasonably necessary for the proper performance of its duties, including the expenses of the board's delegates to national conventions of and membership dues to the national council of engineering examiners or other affiliated national boards or societies.

(e) Adopt and promulgate a code of professional practice and conduct, which shall be binding upon persons registered under this chapter, and which may be amended from time to time, and shall be made known to all registrants and applicants. The code of professional practice and conduct shall include, but not be limited to, the following objectives:

1. The protection of the public health, safety, and welfare;

2. The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

3. The avoidance of conflicts of interest;

4. The prohibition of solicitation or acceptance of [~~engineering~~] work on any basis other than qualifications for the work offered;

5. The prohibition of association with any person engaging in illegal or dishonest activities; *and*

6. The limitation of professional service to the area of competence of the registrant.

(f) Adopt appropriate standards of practice [~~for land surveying~~].

(g) Bring, in its name, injunctive proceedings in the Franklin circuit court to enjoin any person, firm, association, corporation or combination thereof in violation of KRS 322.020.

Section 11. KRS 322.340 is amended to read as follows:

Each licensee shall, when he is licensed, obtain a seal of the design authorized by the board, bearing his name and the words, "Registered Professional Engineer", or "*Professional* [~~Licensed Land~~] Surveyor." Plans, specifications, plats and reports approved by a licensee shall be stamped with the seal when filed with public authorities, during the life of the license, but no person shall stamp or seal any document with the seal after the license has expired or has been revoked[~~, unless it has been renewed or reissued~~].

Section 12. KRS 322.400 is amended to read as follows:

It shall be unlawful for the county clerk of any county, or any other public authority with whom the same may be required by law to be filed, to accept for filing, file or record any map, plat, survey or other document related to the practice of land surveying, unless there is affixed thereto the personal seal and signature of *the* [~~a~~] licensed land surveyor *responsible for* [~~by whom, or under whose personal supervision and direction,~~] such map, plat, survey or other document [~~was prepared~~].

Section 13. KRS 322.430 is amended to read as follows:

(1) If it shall come to the attention of the board, either by written complaint filed and signed by any adult citizen or through such sources as the board may in its discretion deem to be reliable, that any licensed *engineer or* land surveyor has procured his license and registration as the result of any fraud, deceit or false statement made in his application, or in any document subsequently filed to which he shall have affixed his seal or signature, or in any oral testimony subsequently given in support of such application, or that he has been guilty of any gross negligence, incompetence or other misconduct in connection with the practice of *engineering or* land surveying, or has been convicted of any felony or crime involving moral turpitude, the board may revoke the license and registration of such person or suspend the same for such length of time as the board may deem reasonable in the exercise of its sound discretion.

(2) All proceedings instituted and conducted under the preceding subsection shall conform to the procedures set forth in KRS 322.190 to 322.220, inclusive.

Section 14. KRS 322.450 is amended to read as follows:

The provisions of this chapter relating to the necessity of holding a license to engage in the practice of land surveying shall not apply to:

(1) Any employe or employes of the Kentucky bureau of highways, or any other subdivision of the government of the Commonwealth of Kentucky, working under the direct supervision and control of a qualified [~~and~~] registered [~~civil engineer or~~] land surveyor.

(2) Any person or persons engaged in the practice of land surveying which is limited to the measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or of the State of Kentucky.

(3) Any employe or subordinate of a person holding a valid land surveyor's license under the provisions of KRS 322.010, 322.200, 322.230 to 322.250, 322.420 to 322.460, provided, however, that the work performed by such person does not include the preparation of any final maps, plats, or other documents relating to land surveying which might become the subject of public record, and providing that the work of such employe is performed under the direct supervision of, and verified by, his licensed employer.

The Committee Substitute to HB 329 is as follows:

HB 329, AN ACT relating to engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the state board of registration for professional engineers and land surveyors.

(2) "Engineer" means a person who is qualified by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, to engage in the practice of professional engineering.

(3) "Engineering" includes any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and waters, and the review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces

such service or work either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems or projects with which the public welfare or the safeguarding of life, health or property is concerned, when such professional service requires the application of engineering principles and data. It does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, such as locomotive, stationary, marine or power plant operators, nor work embraced within the practice of land surveying.

(4) "Practice of engineering" includes all professional services included in subsection (3) of this section, together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations.

(5) "Land surveying" means *any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys* [~~and includes any services requiring the determination of the location of land boundaries and land boundary corners and incidental topography; the preparation of maps showing the shape and area of tracts of land and their subdivision into smaller tracts; the preparation of maps showing the layout of roads, streets and rights-of-way; and the preparation of official maps or plats of land within this state~~].

(6) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying.

(7) "Practice of land surveying" *shall include the performance of any professional service included in subsection (5) of this section.* [~~or~~] "Offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out to the general public as possessing the ability and qualifications to perform land surveying within the terms of KRS 322.010, 322.200, 322.230 to 322.250, and 322.420 to 322.460.

(8) "Engineer in training" means a person who has passed a written examination in the fundamentals of engineering acceptable to the board.

(9) "Land surveyor in training" means a person who has passed a written examination in the fundamentals of land surveying acceptable to the board.

Section 2. KRS 322.020 is amended to read as follows:

No person shall practice or offer to practice engineering or land surveying, or use, assume or advertise in any way any title or description tending to convey the impression that he is an engineer or land surveyor, unless he has been *registered* [~~licensed~~] under this chapter.

Section 3. KRS 322.030 is amended to read as follows:

KRS 322.020 shall not apply to:

(1) The engaging in engineering as a pupil of or under the direction of a *registered* [~~licensed~~] engineer, if such practice does not include responsible charge of design or supervision as a principal, *or the engaging in land surveying as a pupil of or under the direction of a registered land surveyor, if such practice does not include responsible charge or supervision;*

(2) The practice of officers and employes of the United States government while engaged in engineering *or land surveying* for the government;

(3) The practice of engineering *or land surveying* by a person on property leased or owned by the person unless the practice involves the public safety or public health; or to the performance of engineering that relates solely to the design or fabrication of manufactured products;

(4) An engineer *or land surveyor* engaged solely as an officer or employe of a privately owned public utility or of a corporation engaged in interstate commerce as defined in the interstate commerce act (24 Stat. 379) as amended;

(5) [~~The practice of any elective officer of this state or any political subdivision of this state while carrying out the duties of the office to which he was elected; or~~

~~(6)~~] A licensed architect who engages in engineering practice as an incident to the practice of his own profession.

Section 4. KRS 322.040 is amended to read as follows:

(1) *A person shall qualify for registration as a professional engineer who is* [~~Compliance with the requirements of any one of paragraphs (a) and (b) of this subsection shall qualify an applicant for a license as a professional engineer:~~

~~(a)~~] a graduate of an engineering curriculum of four (4) years or more approved by the board and with a specific record of an additional four (4) years or more of progressive experience in engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering. Each applicant must pass a written examination in the fundamentals of engineering acceptable to the board and a written examination in the principles and practice of engineering acceptable to the board. The board may admit to the fundamentals of engineering examination applicants enrolled in the final year of an undergraduate engineering curriculum. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice engineering in this Commonwealth, provided the applicant is otherwise qualified. In counting years of experience, the board may give credit, not in excess of one (1) year, for satisfactory graduate study in engineering.

[~~(b) Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved four-year engineering curriculum, and a specific record of eight years or more of experience in engineering work of a character satisfactory to the board. The record of experience shall indicate that the applicant is competent to practice engineering. Engineers in training who are currently in the process of acquiring their experience will be allowed to take their professional engineering examination at the time when their experience requirements are met. Applications for engineers in training will be accepted until July 1, 1983, and those who are granted this status will be allowed to be licensed under this paragraph. No further application will be accepted after July 1, 1983, and licensing under this paragraph shall cease when all the candidates accepted shall meet the requirements.~~]

(2) Compliance with the requirements of any one of paragraphs (a), (b) or (c) of this subsection shall qualify an applicant for *registration* [~~a license~~] as a land surveyor:

(a) Any person holding a certificate of registration to engage in the practice of land surveying issued to him by the proper authorities of any state, territory, possession of the United States, District of Columbia, or any foreign country, based upon requirements and qualifications appearing in his application, which, in the opinion of the board, are equal to, or higher than, the requirements required to *be registered* [~~obtain a license~~] in this state[~~, may be registered and licensed~~] to practice land surveying [~~in this state~~].

(b) Any graduate from an [~~accredited~~] engineering or surveying curriculum of not less than four years, at an institution approved by the board, followed by not less than four years of *progressive experience in* land surveying [~~experience~~] under the direct supervision of a [~~regularly licensed and~~] registered *and practicing* land surveyor, and who shall pass a written examination *in the fundamentals of surveying, acceptable to the board, and a written examination in the principles and practices of land surveying, acceptable to the board*[~~, to be formulated by the board, designed to demonstrate that he is qualified to practice land surveying, shall be granted a license and registered as a land surveyor~~].

(c) Any person possessing eight (8) or more years of *progressive* active experience in the practice of land surveying under the direct supervision of a [~~licensed and~~] registered *and practicing* land surveyor, and who shall pass a written examination *in the fundamentals of surveying, acceptable to the board, and a written* *examination in the principles and practices of land surveying, acceptable to the board*[~~, to be formulated by the board, designed to show that he is qualified to practice land surveying, shall be licensed and registered as a land surveyor~~].

(3) In the consideration of the qualifications of applicants, engineering teaching may be construed as engineering experience.

(4) *As it may apply to the experience qualifications for engineers or land surveyors,* the satisfactory completion of each year of an approved curriculum in engineering *or land surveying* in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience required by paragraph (b) of *subsections* [~~subsection~~] (1) *and (2)* of this section. Graduation in a curriculum other than engineering *or land surveying* from a college or university of recognized standing may be considered as equivalent to two years of experience required by paragraph (b) of *subsections* [~~subsection~~] (1) *and (2),* but no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications.

(5) The mere execution as a contractor of work designed by an engineer or the supervision of the construction of such work as a foreman or superintendent shall not be considered practice in engineering.

(6) Any person having the necessary qualifications prescribed in *subsections* [~~subsection~~] (1) *and (2)* of this section shall be eligible for *registration* [~~a license~~] although he may not be practicing his profession at the time of making his application.

Section 5. KRS 322.050 is amended to read as follows:

No person shall be eligible for *registration* [~~a license~~] unless he is of good character and reputation, nor shall any person be eligible if he has been convicted of any felony involving moral turpitude or is adjudged mentally disabled by a court of competent jurisdiction.

Section 6. KRS 322.060 is amended to read as follows:

No company shall be *registered* [~~licensed~~]. Admission to practice shall be determined upon the basis of individual, personal qualifications.

Section 7. KRS 322.070 is amended to read as follows:

Applications for *registration* [~~licenses~~] shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five (5) references, of which at least three (3) shall be from engineers *or land surveyors as may be appropriate,* having personal knowledge of the applicant's engineering *or land surveying* experience.

Section 8. KRS 322.080 is amended to read as follows:

(1) Examinations shall be held at times and places determined by the board.

(2) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering *or land surveying* works so as to insure the safety of life, health and property.

Section 9. KRS 322.100 is amended to read as follows:

The *registration* [~~license~~] fee for engineers or land surveyors shall *be established by regulation of the board* [~~not exceed seventy-five dollars ($75). Of this amount, a sum not exceeding fifty dollars ($50) shall accompany the application, the remainder to be paid at the time or times determined by the board~~]. If the board refuses to issue *registration* [~~a license~~] to any applicant the initial fee deposited shall be retained as an application fee.

Section 10. KRS 322.110 is amended to read as follows:

(1) The board shall *register* [~~issue a license~~] upon payment of the *registration* [~~license~~] fee required by KRS 322.100 [~~to~~] any applicant who, in its opinion, has satisfactorily complied with the provisions of this chapter.

(2) The board may designate the various recognized branches of engineering and classify the applicant in the branch in which he may practice.

Section 11. KRS 322.120 is amended to read as follows:

(1) The board may, upon application and payment of a fee *to be established by regulation of the board, register* [~~not exceeding seventy-five dollars ($75), issue a license to~~] any person who holds a certificate of qualification or registration issued to him by proper authority of the National Council of Engineering Examiners, the National Engineering Certification Committee or any state of the United States or any country, if the requirements under which the certificate of qualification or registration was issued do not conflict with this chapter and are of a standard not lower than those provided in KRS 322.040.

(2) The board may make all regulations governing the matter of reciprocity with other states and countries.

Section 12. KRS 322.130 is amended to read as follows:

(1) The *registration* [~~license~~] shall authorize the practice of engineering or land surveying in which the applicant is classified.

(2) The *registration* [~~license~~] certificate shall show the full name of the *registrant* [~~licensee~~], shall have a serial number and shall be signed by the chairman and the secretary-treasurer of the board, under the seal of the board.

Section 13. KRS 322.140 is amended to read as follows:

Registration [~~The issuance of a license~~] by the board shall be prima facie evidence that the person named in the *registration* [~~license~~] certificate is entitled to all the rights and privileges of a *registered* [~~licensed~~] engineer, or land surveyor, as long as the *registration* [~~license~~] remains unrevoked or unexpired.

Section 14. KRS 322.150 is amended to read as follows:

Registration [~~Every license~~] shall *be valid for not more than two (2) years* [~~expire on the last day of June~~] following its issuance or renewal.

Section 15. KRS 322.160 is amended to read as follows:

(1) The secretary-treasurer of the board shall notify every *registrant* [~~licensee~~] of the date of the expiration of his *registration* [~~license~~] and the amount of the fee required for its renewal [~~for one (1) year~~]. Such notice shall be mailed at least one (1) month in advance of the expiration date. Renewals may be effected at any time *prior to the expiration date* [~~during June~~] by the payment of a fee *to be established by regulation of the board* [~~not exceeding twenty dollars ($20)~~]. The failure of any *registrant* [~~licensee~~] to renew his *registration* [~~license annually in June~~] shall not deprive him of the right of renewal, but the fee to be paid for the renewal of *registration* [~~a license after June~~] shall be increased ten per cent (10%) for each month or fraction of a month that payment of renewal is delayed. [~~But the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.~~] Any person who fails to renew his *registration* [~~license~~] within one (1) year after expiration shall furnish the board with satisfactory evidence *of qualification of continued practice. However, the board may require re-examination* [~~that he is of good character and reputation and has continued to uphold the ethics of the profession and has maintained a competency to practice the profession~~].

(2) All persons who are required to pay renewal fees to the board shall not be required to pay such fees during the time such persons are actively serving in the armed forces of the United States. Any person who has previously paid any renewal fee covering a period during which he was actively serving in the armed forces of the United States shall, upon filing with the board a copy of his discharge, be granted a renewal *registration* [~~license~~] without the payment of any fee. The free renewal shall be for as many *registration* [~~license~~] years as were served by the *registrant* [~~licensee~~] in the armed forces and which were covered in whole or in part by the previous payment of a renewal fee.

Section 16. KRS 322.170 is amended to read as follows:

A new *registration* [~~license~~] certificate may be issued, subject to the rules of the board, to replace any certificate lost, destroyed or mutilated.

Section 17. KRS 322.180 is amended to read as follows:

The board shall have the power to suspend, refuse to renew, or revoke the *registration* [~~license~~] of any registrant, [~~to~~] reprimand [~~any registrant~~], [~~or to~~] place [~~any registrant~~] on probation, *or fine not to exceed one thousand dollars ($1,000), any registrant* who is found guilty by the board of:

(1) The practice of any fraud or deceit in obtaining *registration* [~~a license~~]; or

(2) Any gross negligence, incompetence or misconduct in the practice of engineering or surveying; or

(3) Having been convicted by a court of law of a felony involving moral turpitude; or

(4) Violation of the code of professional practice and conduct which has been adopted by the board*; or*

(5) Violation of the minimum standards of practice for land surveying in Kentucky which has been adopted by the board.

Section 18. KRS 322.190 is amended to read as follows:

Any person or any organization may prefer *written* charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of professional practice and conduct against any *registrant* [~~licensee~~]. [~~The charges shall be in writing and shall be sworn to by the person or officer of the organization making them.~~] They shall be filed with the *executive director* [~~secretary-treasurer~~] of the board.

Section 19. KRS 322.200 is amended to read as follows:

(1) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six months after the date on which they are preferred. Provided, however, that a charged party may waive his right to a hearing within six months. The time and place of the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the *registrant* [~~licensee~~] at least thirty days before the date fixed for the hearing.

(2) At any hearing, the accused may appear personally and by counsel, cross-examine witnesses appearing against him and produce evidence and witnesses in his own defense. If five or more members of the board vote in favor of finding the accused guilty, the board *may* [~~shall~~] revoke his *registration* [~~license~~], or suspend the same for such length of time as they may in the exercise of a sound discretion deem to be reasonable. Conduct of the hearing shall be governed by the administrative rules and regulations of the board, a copy of which shall be made available to every party scheduled for a hearing, *twenty (20) days prior to the hearing.*

Section 20. KRS 322.210 is amended to read as follows:

Any person who feels aggrieved by any action of the board in refusing or revoking his *registration* [~~license~~] may appeal to the Franklin Circuit Court within thirty (30) days after the action complained of. [~~After full hearing,~~] That court shall sustain or reverse the action of the board.

Section 21. KRS 322.220 is amended to read as follows:

The board, subject to its rules, may reissue a *registration* [~~license~~] certificate to any person whose *registration* [~~license~~] has been revoked.

Section 22. KRS 322.240 is amended to read as follows:

Each appointed member of the board shall be a citizen of the United States and shall have been a resident of this state for five (5) years. Six (6) members of the board shall have been engaged in the practice of the profession of engineering *or land surveying* for at least twelve (12) years, and shall have been in responsible charge of important engineering *or land surveying* work or responsible charge of engineering *or land surveying* teaching for at least five (5) years. One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At no time shall more than two (2) members whose qualifications are based on responsible charge of engineering *or land surveying* teaching or more than two (2) members from the faculties of the engineering *or land surveying* colleges of the state be appointed to the board. *At least four (4) members of the board shall be registered as engineers and at least two (2) members shall* *be registered as land surveyors.* The engineer members of the board shall have been *registered* [~~licensed~~] engineers in Kentucky for at least four (4) years prior to the date of their appointments. *The land surveyor members of the board shall have been registered land surveyors in Kentucky for at least four (4) years prior to the date of their appointments* [~~In addition to the foregoing qualifications, two (2) members of the board shall be licensed land surveyors~~].

Section 23. KRS 322.270 is amended to read as follows:

When attending to the work of the board, each member shall receive compensation as established by regulation of the board and approved by the appropriate legislative body. This includes meetings of committees of the board and time spent in necessary travel. Further, members shall be reimbursed for costs for actual travel, incidental, clerical and all expense necessarily incurred in carrying out the duties of the members of the board [~~Each member of the board shall receive not more than ten dollars ($10) per day when actually attending to the work of the board or any of its committees and for the time spent in necessary travel. He shall also be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out this chapter~~].

Section 24. KRS 322.280 is amended to read as follows:

(1) The board shall hold at least two (2) regular meetings each year. Special meetings shall be held whenever the bylaws provide. Notice of all meetings shall be given in the manner provided by the bylaws.

(2) *Five (5)* [~~Six~~] members shall constitute a quorum.

Section 25. KRS 322.290 is amended to read as follows:

(1) The board shall:

(a) Administer this chapter.

(b) Adopt an official seal.

(c) Provide suitable office quarters at its own expense.

(2) The board *shall* [~~may~~]:

(a) Adopt and amend all bylaws and rules of procedure, consistent with the Constitution and laws of the state, and reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

(b) Employ *an executive director and* any clerk or other assistants necessary for the proper performance of its work.

(c) Employ any legal assistants that it considers necessary.

(d) Make expenditures for any purpose that it considers reasonably necessary for the proper performance of its duties, including the expenses of the board's delegates to national conventions of and membership dues to the national council of engineering examiners or other affiliated national boards or societies.

(e) Adopt and promulgate a code of professional practice and conduct, which shall be binding upon persons registered under this chapter, and which may be amended from time to time, and shall be made known to all registrants and applicants. The code of professional practice and conduct shall include, but not be limited to, the following objectives:

1. The protection of the public health, safety, and welfare;

2. The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

3. The avoidance of conflicts of interest;

4. The prohibition of solicitation or acceptance of engineering *or land surveying* work on any basis other than qualifications for the work offered;

5. The prohibition of association with any person engaging in illegal or dishonest activities;

6. The limitation of professional service to the area of competence of the registrant.

(f) Adopt appropriate standards of practice [~~for land surveying~~].

(g) Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, firm, association, corporation or combination thereof in violation of KRS 322.020.

Section 26. KRS 322.300 is amended to read as follows:

The board shall keep a record of its proceedings and a register of all applications for *registration* [~~licenses~~]. The register shall state:

(1) The name, age and residence of each applicant;

(2) The date of the application;

(3) The place of business of the applicant;

(4) His educational and other qualifications;

(5) Whether or not an examination was required;

(6) Whether the applicant was rejected;

(7) Whether *registration* [~~a license~~] was granted;

(8) The date of the action of the board; and

(9) Any other information that the board considers necessary.

Section 27. KRS 322.320 is amended to read as follows:

(1) In carrying this chapter into effect the board, under the hand of its chairman and under its seal, may, in cases involving the revocation of a *registration* [~~license~~] or practicing or offering to practice without *registration* [~~a license~~], subpoena witnesses and compel their attendance, and require the production of books, papers and documents. Any member may administer oaths to witnesses appearing before the board.

(2) If any person refuses to obey any subpoena so issued, or refuses to testify or produce any books, papers or documents, the board may present its petition to any authority having jurisdiction, setting forth the facts. That authority shall, in a proper case, issue its subpoena to the person, requiring him to attend and testify or produce books, papers and documents considered necessary and pertinent by the board.

(3) Board members shall be held free of any personal liability as a result of board actions.

Section 28. KRS 322.330 is amended to read as follows:

The secretary-treasurer or that board employe properly authorized by the board shall:

(1) Receive and account for all money collected under this chapter and pay it into the State Treasury.

(2) Publish, during July of each year, a roster, or supplement thereto, showing the names and places of business of all *registered* [~~licensed~~] engineers and land surveyors. Copies of the roster shall be mailed to each *registered* [~~licensed~~] engineer and land surveyor, filed with the Secretary of State and furnished to the public upon request.

Section 29. KRS 322.340 is amended to read as follows:

Each *registrant* [~~licensee~~] shall, when he is *registered* [~~licensed~~], obtain a seal of the design authorized by the board, bearing his name and the words, "Registered Professional Engineer", or "*Registered* [~~Licensed~~] Land Surveyor". Plans, specifications, plats and reports approved by a *registrant* [~~licensee~~] shall be *signed and dated by the registrant and* stamped with the seal when filed with public authorities, *and before the delivery thereof to any client* during the life of the *registration* [~~license~~], but no person shall stamp, *sign and date* [~~or~~] seal any document with the seal after the *registration* [~~license~~] has expired or has been revoked, unless it has been renewed or reissued.

Section 30. KRS 322.350 is amended to read as follows:

(1) No person shall:

(a) Present or attempt to use as his own the *registration* [~~license~~] or seal of another.

(b) Give any false or forged evidence to the board or to any member of the board in obtaining a *registration* [~~license~~].

(c) Falsely impersonate any other *registrant* [~~licensee~~].

(d) Attempt to use an expired or revoked *registration* [~~license~~].

(e) Furnish free engineering or land surveying services as a part of any contract so drawn as to defeat the spirit of this chapter.

(2) The board, or persons designated by it, may prefer charges for violations of any provision of subsection (1) of this section in any circuit court.

Section 31. KRS 322.360 is amended to read as follows:

(1) Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving engineering, unless the plans, specifications and estimates have been prepared and the construction executed under the direct supervision of a *registered* [~~licensed~~] engineer or a licensed architect.

(2) Subsection (1) of this section shall not apply to any public work in which the contemplated expenditure for the completed project does not exceed two thousand dollars, to the maintenance or repair of an existing state or county highway or to the construction, maintenance or repair of any capital construction project undertaken pursuant to KRS 56.491 the total cost of completion of which the executive department for finance and administration has determined will not exceed twenty-five thousand dollars ($25,000).

Section 32. KRS 322.370 is amended to read as follows:

This chapter shall not prevent a *registered* [~~licensed~~] engineer from carrying on any architectural practice incident to the practice of engineering.

Section 33. KRS 322.380 is amended to read as follows:

(1) No person not *registered* [~~licensed~~] under this chapter shall avoid or attempt to avoid this chapter by having a representative or employe seek engineering or land surveying work in his behalf.

(2) No person shall act as a representative or employe in the type of activity prohibited by subsection (1).

Section 34. KRS 322.400 is amended to read as follows:

It shall be unlawful for the county clerk of any county, or any other public authority with whom the same may be required by law to be filed, to accept for filing, file or record any map, plat, survey or other document related to the practice of land surveying, unless there is affixed thereto the personal seal and signature of *the registered* [~~a licensed~~] land surveyor by whom, or under whose personal supervision and direction, such map, plat, survey or other document was prepared.

Section 35. KRS 322.420 is amended to read as follows:

(1) All applications for [~~licensing and~~] registration as a land surveyor shall be made upon forms to be provided by the board and shall be signed and sworn to by the applicant. In addition to such other information as the board may require, all applications shall contain a statement of the applicant's educational attainments and record of experience. References shall be furnished therein to not less than five (5) persons possessing direct personal knowledge of the experience and work done by the applicant, at least three (3) of whom shall be registered land surveyors. Applications shall be filed with the *executive director of* [~~secretary to~~] the board and shall be accompanied by an application fee, to be *established by regulation of* [~~fixed by~~] the board[~~, in an amount not to exceed seventy-five dollars ($75)~~]. In the event that the board shall, for good cause, deny the application, the fee accompanying the same shall be retained by the board to cover the cost of investigating and processing the same.

(2) All fees paid to and collected by the board under the provisions of this section shall be deposited in a depository designated by the board and disbursed only at the direction of the board. The officer or employe of the board who shall be designated to collect and disburse the funds represented by such fees shall be required to execute a bond, with corporate surety, in an amount to be determined by the board and reasonably calculated to cover the aggregate of such fees for a period of one (1) year.

Section 36. KRS 322.450 is amended to read as follows:

The provisions of this chapter relating to the necessity of holding *registration* [~~a license~~] to engage in the practice of land surveying shall not apply to:

(1) Any employe or employes of the Kentucky bureau of highways, or any other subdivision of the government of the Commonwealth of Kentucky, working under the direct supervision and control of a qualified and registered civil engineer or land surveyor.

(2) Any person or persons engaged in the practice of land surveying which is limited to the measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or of the State of Kentucky.

(3) Any employe or subordinate of a person holding a valid land surveyor's *registration* [~~license~~] under the provisions of KRS 322.010, 322.200, 322.230 to 322.250, 322.420 to 322.460, provided, however, that the work performed by such person does not include the preparation of any final maps, plats, or other documents relating to land surveying which might become the subject of public record, and providing that the work of such employe is performed under the direct supervision of, and verified by, his *registered* [~~licensed~~] employer.

Section 37. KRS 322.470 is amended to read as follows:

(1) A *registered* [~~professional~~] land surveyor, his agents, employes, and personnel under his supervision, may go on, over, and upon the lands of others when necessary to perform surveys for the location of property corners, boundary lines, rights-of-way, and easements, and, in so doing, may carry with them their customary equipment and vehicles. Entry under the right hereby granted shall not constitute trespass, and a *registered* [~~professional~~] land surveyor, his agents, employes, and personnel under his supervision shall not be liable to arrest or a civil action by reason of such entry; however, nothing in this section shall be construed as giving authority to a *registered* [~~professional~~] land surveyor, his agents, employes, or personnel under his supervision to destroy, injure, damage or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for such damages.

(2) A *registered* [~~professional~~] land surveyor, his agents, employes, and personnel under his supervision shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

(3) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon said land under the provisions of this section.

Section 38. KRS 322.990 is amended to read as follows:

Any person who violates any provisions of this chapter shall be fined not less than one hundred dollars ($100) nor more than *one thousand dollars ($1,000)* [~~five hundred dollars ($500)~~], or be imprisoned not more than three (3) months, or both.

Section 39. The following KRS sections are repealed:

322.430 Revocation or suspension of license, grounds, procedure.

322.440 Land surveyors to have personal seal.

HB 553, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any licensee, individual, partnership, corporation, joint-venture, or business entity to have possession of alcoholic beverages, for sale, upon which no Kentucky tax has been paid.

Section 2. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) Any person required to pay any tax or file any report or statement provided by KRS 243.710 to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty percent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.

(8) Any person who violates Section 1 of this Act shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or be imprisoned for not more than two (2) years, or both.

The Committee Amendment No. 1 to HB 553 is as follows:

Amend printed copy of HB 553:

On page 1, line 3, after the word "*any*", by deleting the words "*licensee, individual,*" and by deleting lines 4, 5, and 6 in their entirety and inserting in lieu thereof, "*person, except a licensed distiller, rectifier, vintner, brewer or transporter, within this state to have in his possession any alcoholic beverages for sale or resale that have never been subject to the taxes levied under this chapter.*"

SB 208, AN ACT relating to business regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.950 is amended to read as follows:

As used in KRS 152.952 to 152.958, unless the context otherwise requires:

(1) "Division" means the division of small business assistance.

(2) "Director" means the director of the division.

(3) "Council" means the small business advisory council as established in KRS 152.956.

(4) "Small business" means a business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity:

(a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and

(b) Has twenty (20) or fewer full-time employes or no more than the equivalent of one million dollars ($1,000,000) in annual gross revenues in the preceding fiscal year.

(5) "Clearinghouse" means the business information clearinghouse.

(6) "Manager" means the manager of the clearinghouse.

(7) "Master application" means the document designed by the clearinghouse for public use in supplying all information necessary for individual state agency approval for licenses the Commonwealth requires for any person subject to the provisions of KRS 152.952 to 152.958.

(8) "Master license" means the document designed for public display issued by the clearinghouse which authorizes individual state agency approval for licenses the state requires for any person subject to the provisions of KRS 152.952 to 152.958.

(9) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any business activity.

(10) "Issuing agency" means any organizational unit of state government legally authorized to issue, suspend, continue in effect, revoke or enforce any license.

(11) "Grocery store" means any retail business that derives fifty percent (50%) or more of its gross receipts from the sale of food products, beverages and common household goods except those businesses selling exclusively fully prepared foodstuffs.

(12) "Business" means any operation required to have a sales and use tax permit pursuant to KRS Chapter 139.

(13) "Work team" means a group of individuals assembled to study and make recommendations on the administration of a license and shall include representation from the issuing agency, the regulated industry, and representatives that have experience in the administration of licenses, but no vested interest in the particular license that is being considered.

Section 2. KRS 152.953 is amended to read as follows:

(1) There is established in the department a business information clearinghouse.

(2) By January 1, 1985, the clearinghouse shall develop and maintain a current list of all licenses arranged by the Standard Industrial Classification (SIC) developed by the U.S. Department of Labor or similar classification system as may be developed by the clearinghouse.

(3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each

business classification. The informational packet for each business classification shall include applications, fee schedules and informational bulletins for the licenses most commonly required of businesses within that classification.

(4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid new and continuing businesses with the licensing process.

(5) The clearinghouse shall maintain current information on other agencies' programs that provide business financing and management assistance and shall serve as a referral service to those programs.

(6) The manager shall encourage federal and local governments to participate by submitting copies of application forms for licenses applicable to businesses in the Commonwealth.

(7) *Work teams may be assembled at the request of the issuing agency, the regulated industry, the governor or the general assembly. The clearinghouse and issuing agency shall coordinate the activities of and provide staff assistance to any work teams. Members of the work teams shall serve without compensation.*

(8) The clearinghouse shall prepare an annual report summarizing its work for the governor and the general assembly. In addition to other information specifically required to be in this report by KRS 152.959, the report shall include a list of all licenses arranged by business classification and agency, *the reports of any work teams* and may include recommendations on necessary statute or regulation changes to enable agencies to simplify or consolidate regulatory activities.

Section 3. KRS 152.955 is amended to read as follows:

(1) Each agency shall appoint a licensing coordinator to assist the clearinghouse in assembling the initial licensing information and to immediately notify the clearinghouse of changes in licensing requirements. The licensing coordinator shall also arrange for agency representation at preapplication conferences and consolidated hearings. The licensing coordinator shall inform the manager of any confidentiality standards associated with any license included in the program.

(2) *Each agency shall provide application forms and informational bulletins to the clearinghouse at its request for inclusion in informational packets.*

(3) Employes of the clearinghouse shall comply with the same confidentiality standards that apply to the employes of the issuing agencies for any license included in the program and shall be subject to any penalties that apply to the violation of such confidentiality standards.

Section 4. KRS 152.957 is amended to read as follows:

Any person desiring to open a new business or additional business locations in the Commonwealth after July 13, 1984 is required to obtain a general business license. This license shall be valid for the duration of the new business or additional location, but shall expire upon discontinuation of the new business or additional location or upon a change of ownership. This license shall be administered by the revenue cabinet and the maximum fee for this license shall be ten dollars ($10). The revenue cabinet shall retain one dollar ($1.00) of the fee to cover its administrative cost and the remaining fees shall be deposited in a trust and agency account and shall be used by the clearinghouse in performing its assigned duties. *The clearinghouse may administer the general business license and collect the fee for the master application and licensure program.*

Section 5. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the general assembly and the court of justice, authorized by law to promulgate administrative regulations.

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions.

(3) "Adopted" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has become effective in accordance with the provisions of this chapter.

(4) "Commission" means the legislative research commission.

(5) "Filed" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has been submitted to the commission in accordance with this chapter.

(6) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240.

(7) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation.

(8) "Subcommittee" includes the administrative regulation review subcommittee, any other subcommittee of the legislative research commission, or a standing committee of the general assembly.

(9) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

(10) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping or similar responsibilities upon business entities in the Commonwealth.

(11) "Federal mandate comparison" means a written statement containing the information required by Section 8 of this Act.

Section 6. KRS 13A.030 is amended to read as follows:

(1) The administrative regulation review subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of proposed administrative regulations, review of existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Review and comment upon administrative regulations submitted to it by the commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them;

(d) Conduct such other studies relating to administrative regulations as may be assigned by the commission.

(2) The subcommittee may make a nonbinding determination:

(a) That a proposed administrative regulation, proposed amendment to an administrative regulation, emergency administrative regulation, or existing administrative regulation:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. *Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification.*

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority; or

7.[~~5.~~] Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an existing administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit such data and information as required by the subcommittee in the performance of its duties under this chapter and no administrative body shall fail to provide the information or data required.

Section 7. KRS 13A.230 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall be filed with the administrative regulations compiler accompanied by an original and five (5) copies of:

(1) The regulatory impact analysis required by KRS 13A.240.

(2) The statement as to why tiering as required in KRS 13A.210 was not used, if it has not been used.

(3) The fiscal note required by KRS 13A.250.

(4) The federal mandate comparison required by Section 8 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) When promulgating administrative regulations and amending existing administrative regulations in response to a federal mandate, an administrative body shall compare its proposed compliance standards with any minimum or uniform standards suggested or contained in the federal mandate.

(2) Such a comparison shall include, in detail, a written determination by the administrative body on whether the proposed state administrative regulation will impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate.

(3) If the administrative body determines that the proposed state administrative regulation imposes additional requirements or responsibilities on the regulated entities than is required by the federal mandate, the administrative body shall include in its comparison analysis a written statement justifying the imposition of stricter standards, requirements or responsibilities.

The Committee on Health and Welfare reported HB 224 with Committee Substitute attached thereto, HB 225 with Committee Substitute attached thereto, and HB 494 with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 224, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "paying patient" means persons receiving health care services who pay directly for services rendered, patients with private health insurance or health maintenance organization coverage, persons receiving medicaid or medicaid benefits under title XVIII and title XIX of the social security act and persons receiving veteran's health care benefits. "Paying patient" does not include medically indigent persons with no source of payment whatsoever.

(2) All licensed health facilities and health services, and all licensed practitioners of the healing arts as defined in KRS 311.271, shall provide all paying patients an itemized statement of charges, fees and rates for services rendered.

(3) All hospitals shall provide all paying patients, within ten (10) days of their discharge, an itemized statement of charges, fees and rates incurred during the patient's hospital stay. If the hospital stay exceeds thirty (30) days, the itemized statement shall be provided on a monthly basis.

(4) All long-term care facilities shall provide all paying patients an itemized statement of charges, fees and rates on a monthly basis.

(5) The statements shall itemize all charges, fees and rates for services rendered, rooms, ancillary procedures, equipment, supplies, drugs and other charges, fees and rates.

(6) The itemized statements shall be in a clear concise format understandable to the ordinary layperson.

The Committee Substitute to HB 224 is as follows:

HB 224, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "paying patient" means persons receiving health care services who pay directly for services rendered, patients with private health insurance or health maintenance organization coverage, persons receiving medicaid or medicaid benefits under title XVIII and title XIX of the social security act and persons receiving veteran's health care benefits. "Paying patient" does not include medically indigent persons with no source of payment whatsoever.

(2) When a copy of an itemized statement is requested by any paying patient, each health facility shall furnish to the patient within thirty (30) days of the patient's discharge or within fifteen (15) days of the patient's request, whichever is later, one (1) copy free of charge of the itemized statement of services rendered and charges incurred by the patient. The itemized statement shall be stamped "Kentucky Revised Statutes prohibit the use of this statement for insurance payment purposes where benefits have been assigned."

(3) Each health facility shall post in a publicly visible place in their admission, outpatient areas and, where applicable, emergency areas that an itemized statement is available to any paying patient upon request.

(4) The itemized statement rendered shall be the record maintained by the health facility that details the charges made for services rendered to patients and shall indicate whether an assignment of benefits has been obtained.

(5) Each health facility shall designate and make available appropriate staff to provide, upon patient request, an explanation of charges listed in the itemized statement.

(6) If a health facility knows of a discrepancy in the total charges as reported in an itemized statement and that which is reported to a third party payor, or at any time that a health facility becomes aware of such a discrepancy, the health facility shall provide the patient and third party payor with notification, an explanation and, if applicable, any reconciliation of the discrepancy in total charges.

Section 2. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility; or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employes which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any health facility which willfully violates Section 1 of this Act shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No insurer shall use an itemized statement furnished pursuant to KRS Chapter 216B for insurance payment purposes where benefits have been assigned.

SECTION 4. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No corporation subject to the provisions of this subtitle shall use an itemized statement furnished pursuant to KRS Chapter 216B for insurance payment purposes where benefits have been assigned.

Section 5. KRS 304.17-130 is amended to read as follows:

(1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

(2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $.... (insert an amount which shall not exceed $1000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

(b) "[~~Subject to any written direction of the insured in the application or otherwise~~] All or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services *shall, at the option of the insured* [~~may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss~~], be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

Section 6. KRS 304.18-090 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all benefits under any blanket health policy or

contract shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured is a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian, conservator or other person actually supporting him.

(2) [~~The policy may provide that~~] All or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services *shall, at the option of the insured* [~~may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss~~], be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

Section 7. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental and health service corporations are subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1—Scope of Code;

(2) Subtitle 2—The Insurance Commissioner;

(3) Subtitle 7—Investments;

(4) Subtitle 8—Administration of Deposits;

(5) Subtitle 12—Trade Practices and Frauds;

(6) Subtitle 25—Continuity of Management;

(7) Subtitle 33—Rehabilitation and Liquidation;

(8) Subtitle 18—KRS 304.18-110, 304.18-120—Group Conversion; *KRS 304.18-090;*

(9) Subtitle 4—Fees and Taxes;

(10) Subtitle 99—Penalties; [~~and~~]

(11) Subtitle 14—KRS 304.14-500 to 304.14-550*; and*

(12) Subtitle 17—KRS 304.17-130.

SECTION 8. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any private employer doing business in this state who provides for his employes on a self-insured basis, hospital or surgical benefits, shall be subject to KRS 304.17-130 and 304.18-090. Failure to honor assignment of benefits shall be punishable pursuant to Section 9 of this Act.

SECTION 9. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any insurer or corporation which willfully violates KRS 304.17-130, 304.18-090, 304.32-270 or Section 8 of this Act shall be punished by a fine not less than three (3) times the amount of claim or loss of certificate of authority.

HB 225, AN ACT relating to day care centers and foster homes serving minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties*; provided that, all licensees under subsection (1) of this section shall request from the justice cabinet records of all available convictions involving any sex crime or crime of violence of a person who applies for employment or volunteers for a position in which he would have supervisory or disciplinary power over a minor in a day-care center as defined in KRS 199.894. The justice cabinet shall furnish the information to the requesting licensee and shall also send a copy of the information to the applicant for employment or prospective volunteer. The request for records shall be on a form approved by the cabinet and the cabinet may charge a fee to be paid by the applicant or volunteer for the actual cost of processing the request.*

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50.00) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25.00). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the cabinet. The balance of said special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day care centers and homes by the cabinet for human resources shall be unannounced.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall acquire, approve and administer a psychological profile test to applicants for employment or volunteers for any position in which the employe or volunteer would have a supervisory or disciplinary power over a minor in a day-care center as defined in KRS 199.894 or in a foster family home or in a group home as defined in KRS 199.011.

(2) The cabinet shall determine the test suitable for protecting the minor from a crime of sex or crime of violence.

(3) The applicant shall pay a reasonable fee for the administering of the test. Such fee shall be set by the cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Before any applicant to provide foster care home services to a minor may be approved, the cabinet for human resources shall request from the justice cabinet records of all available convictions involving any sex crime or crime of violence for the applicant. The justice cabinet shall furnish the information to the cabinet for human resources and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the justice cabinet and the justice cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

The Committee Substitute to HB 225 is as follows:

HB 225, AN ACT relating to day care centers and foster homes serving minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) No state board of education pursuant to KRS 156.070 or local board of education of either an independent or county school district pursuant to KRS 160.290 and no child care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, any person convicted of a sex crime. Each board of education and each child care center shall request the criminal record of prior sex crime convictions or pleas of guilty of any applicant for employment from the justice cabinet prior to employing the applicant; except that the provisions of this section shall not apply to any church sponsored school, private school, or church sponsored day care center.

(2) Each application form, provided by the employer to the applicant, shall conspicuously state the following:

"FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(3) Any request for records under subsection (1) of this section shall be on a form approved by the justice cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(4) As used in this section "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.340 to 531.370, and the criminal offense of unlawful transaction with a minor. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Before any applicant to provide foster care home services to a minor may be approved, the cabinet for human resources shall request from the justice cabinet records of all available convictions involving any sex crime or crime of violence for the applicant. The justice cabinet shall furnish the information to the cabinet for human resources and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the justice cabinet and the justice cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 3. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.310 to 17.340 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(2) Any public official or employe who knowingly or intentionally makes, or causes to be made, a false return of information to the bureau shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child care center which violates subsection (1) of Section 1 of this Act may be liable for license revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the cabinet for human resources.

(b) The department of education may withhold funds allotted under KRS 157.350 from any board of education which violates subsection (1) of Section 1 of this Act in the amount of one thousand dollars ($1,000) per violation.

(c) In addition to penalties listed above, any child care center or any board of education which violates subsection (1) of Section 1 of this Act shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

HB 494, AN ACT relating to day care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties*; provided that, for all applicants for a license and all licensees under subsection (1) of this section, the secretary shall request from the justice cabinet records of all available felony convictions; and further that, all licensees under subsection (1) of this section shall request from the justice cabinet records of all available felony convictions of any person who is currently employed or applies for employment or volunteers for a position in which he would have supervisory or disciplinary power over a minor in a day-care center as defined in KRS 199.894. The justice cabinet shall furnish the information to the requesting secretary and licensee and shall also as applicable send a copy of the information to the licensee or applicant for licensure or for employment or to the prospective volunteer or to the current employe. The request for records shall be on a form approved by the cabinet and the cabinet may charge a fee to be paid by the licensee or applicant or volunteer for the actual cost of processing the request*.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50.00) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25.00). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) *Except for noncompliance with the records check provision of subsection (1) of this section,* no day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the cabinet. The balance of said special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day care centers and homes by the cabinet for human resources shall be unannounced.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) No applicant for a license to operate a day care center as defined in KRS 199.894 may be approved by the cabinet for human resources if the applicant has been convicted of any felony crime.

(2) No licensee or applicant for licensure to operate a day care center as defined in KRS 199.894 shall employ or allow to act as a volunteer any person who has been convicted of any felony crime.

Section 3. KRS 199.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 199.350 shall be imprisoned in the county jail not less than ten (10) nor more than sixty (60) days, or fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200), or both.

(2) Any person who upon thirty (30) days' notice fails to remove a child from the state when required to do so under a bond as provided in paragraphs (c) or (d) of subsection (2) of KRS 199.350 shall forfeit one thousand dollars ($1,000), to be recovered upon the bond by a suit in the name of the county in which the bond is filed.

(3) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(4) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590, or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(5) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(6) Any person who violates any of the provisions of KRS 199.896 shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

(7) Anyone knowingly and willfully violating the provisions of subsection (2) of KRS 199.335 shall be guilty of a Class B misdemeanor as designated in KRS 532.090.

(8) Any person who willfully permits, assists, or encourages the unauthorized release of any information made pursuant to KRS 199.335, or otherwise violates the provisions of subsection (9) of KRS 199.335 shall be guilty of a Class B misdemeanor as designated in KRS 532.090.

(9) Any person who willfully violates the provisions of KRS 199.463 shall be imprisoned in the county jail for a period not to exceed six (6) months or fined not more than five hundred dollars ($500), or both.

(10) Any person who violates the provision of this Act shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months or be fined and imprisoned. Each violation of the act shall constitute a separate offense.

The Committee Amendment No. 1 to HB 494 is as follows:

Amend printed copy of HB 494:

On page 3, line 25, by inserting after the words "*felony crime*" the following phrase:

"*or misdemeanor sex offense*"

The Committee Amendment No. 2 to HB 494 is as follows:

Amend printed copy of HB 494:

On page 3, line 24, by inserting after the word "*employ*" the following phrase "*or allow to retain employment*";

And also on line 24 by inserting after the word "*act*" the following words "*or remain*";

On page 3, between lines 25 and 26 by inserting a new subsection 3 to read as follows:

"*(3) No licensee who operates a day care center as defined in KRS 199.894 may retain a license to operate if such licensee has been convicted of any felony crime or any misdemeanor sex offense.*"

The Committee on Counties and Special Districts reported HB 339 with Committee Amendment attached thereto, HB 374 with Committee Amendment attached thereto, HB 537 with Committee Amendment attached thereto, HB 561 with Committee Amendment attached thereto, HB 627, and HB 698 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 339, AN ACT relating to volunteer fire fighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, *except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010* [~~however~~], include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. *In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees*;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service

credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, *and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees*;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

Section 2. KRS 78.610 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period, for which he receives compensation four percent (4%) of his creditable compensation. Any other provisions of KRS 78.510 through 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four percent (4%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employe for each and every payroll period subsequent to the date the

county participated in the system, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employe contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employe contributions made prior to August 1, 1982. *Employe contributions of volunteer fire fighters based upon an assumed salary pursuant to KRS 78.510(13) shall not be picked up by the employer.*

Section 3. KRS 78.615 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 78.540. After August 1, 1982, *except in the case of volunteer fire fighters whose creditable compensation is based upon an assumed salary,* employe contributions shall be picked up by the employer pursuant to KRS 78.610(4). Service credit will be allowed for each month such contributions are deducted or picked up during a fiscal or calendar year, provided the employe receives creditable compensation for an average of one hundred (100) hours or more of work per month, except in the case of school bus drivers for school boards in which event the school term average shall be eighty (80) hours of work per month, *or except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees.* If the average number of hours of work is less than one hundred (100) hours per month, or in the case of school bus drivers eighty (80) hours per month, *or in the case of volunteer fire fighters less than the work requirement set by the district board of trustees,* the employe shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, or in the case of school bus drivers eighty (80) hours of work *or in the case of volunteer fire fighters those months in which he satisfies the work requirements set by the district board of trustees.*

(2) Employe contributions shall not be deducted from the creditable compensation of any employe or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving 75% or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions or such contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

The Committee Amendment No. 1 to HB 339 is as follows:

Amend printed copy of HB 339:

On page 7, line 14, after the word "system," by inserting the following:

"*including the assumed creditable compensation of fire fighters employed by a district created pursuant to KRS 75.010,* "; and on page 11, by adding after line 9, the following:

"Section 4. KRS 61.565 is amended to read as follows:

(1) Each employer participating in the state police retirement system as provided for in KRS 16.510 to 16.652, and each employer participating in the county employes retirement system as provided for in KRS 78.510 to 78.852 and each employer participating in the Kentucky employes retirement system as provided for in KRS 61.510 to 61.692 shall contribute annually to the respective retirement system an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of its employes, *including the assumed creditable compensation of fire fighters employed by a district created pursuant to KRS 75.010,* to be known as the "normal contributions," and an additional amount equal to one percent (1%) of unfunded past service liabilities, plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board to be known as the "past service contribution."

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.

(4) The board shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.".

HB 374, AN ACT relating to the auditing of county clerks and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.240 is amended to read as follows:

It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260 and in so doing shall:

(1) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260, provided that the forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county; the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered.

(2) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160.

(3) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes which shall be embossed with the registration number, the word "Kentucky" and the name of the county in which the

plate is issued or in lieu thereof the words "Official," "Transportation," "Executive," "Farm," or in the case of plates for commercial vehicles, such words or information as the department of vehicle regulation may by regulation provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no numerals indicating any year shall be placed upon any license plate issued under and in accordance with the provisions of KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and of KRS 186.061, relating to the licensing of vehicles owned exclusively by any nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon such plate if so desired.

(4) The transportation cabinet shall receive all moneys forwarded by the clerk in each county and turn same over to the state treasurer for the benefit of the state road fund.

(5) The transportation cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. *The auditor of public accounts, pursuant to Section 2 of this Act, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the transportation cabinet, with the advice, consultation and approval of the auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in Section 2 of this Act are performed in accordance with generally accepted auditing standards.*

(6) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO READ AS FOLLOWS:

(1) The auditor of public accounts shall annually audit each county clerk concerning:

(a) All receipts due from the collection of motor vehicle registration fees and motor vehicle licenses and other receipts due the clerk pertaining to motor vehicles as prescribed in KRS Chapters 186 and 186A;

(b) All receipts due from the collection of motor vehicle usage tax as prescribed by KRS 138.460; and

(c) All receipts due from the collection of the ad valorem tax on motor vehicles as prescribed by KRS 134.800.

These annual audits shall be completed by April 15 of the year following the year to be audited.

(2) The provisions of KRS 43.070 shall not apply to the separate and distinct duties imposed on the auditor of public accounts pursuant to subsection (1) of this section. The audits specified in subsection (1) of this section shall be conducted prior to the audits mandated by KRS 43.070.

(3) Immediately upon completion of each audit, the auditor of public accounts shall prepare a report of his findings noting any indebtedness to the Commonwealth. He shall furnish one (1) copy to the county clerk, one (1) copy to the secretary of the transportation cabinet and one (1) copy to the secretary of the revenue cabinet. Should the county clerk object to any findings of indebtedness in the auditor's report, he shall file a written response with the auditor within ten (10) days of his receipt of said report. The auditor shall consider the written response and within thirty (30) days of its receipt issue a final report. Should the county clerk wish to object to any findings of indebtedness contained in the final report, he shall file a request within ten (10) days of his receipt of the final report for a hearing before a three (3) member panel composed of the secretary of transportation or his designee, the secretary of the revenue cabinet or his designee and the president of the Kentucky county clerks association or his designee. The majority decision of this panel shall be determinative of any indebtedness to the Commonwealth. This panel shall convene within twenty (20) days after receiving a request for such hearing and shall render its decision including written findings of fact within fifteen (15) days of the termination of the hearing. Should the county clerk wish to appeal the decision of this panel he shall file such appeal within thirty (30) days of the issuance of the panel's decision in the circuit court for the county where he serves.

Section 3. To carry out the purposes of this Act, there is appropriated to the Auditor of Public Accounts $500,000 out of the State Treasury for each year of the 1985-86, and 1986-87 bienniums. It is further directed that this appropriation be proportionately derived from revenues obtained from fees and taxes pertaining to motor vehicles received pursuant to KRS Chapters 186 and 186A, and KRS 138.460 and 134.800.

The Committee Amendment No. 1 to HB 374 is as follows:

Amend printed copy of HB 374:

on page 3, line 14, after the "." insert the following language: "*Payment for expenses incurred from the audits shall be one-half (1/2) the responsibility of the fiscal court and one-half (1/2) from the appropriation pursuant to Section 3 of the Act*".

on page 4, line 11, after the "." insert the following language: "*Payment for expenses incurred from the audits shall be one-half (1/2) the responsibility of the fiscal court and one-half (1/2) from the appropriation pursuant to Section 3 of the Act*".

on page 5, line 17, change $500,000 to $250,000.

on page 5, line 17, beginning with the word, "each" and continuing through to the word "bienniums" on line 18, by striking these words in their entirety and inserting in lieu thereof the following: "FY 1986-87 and $250,000 out of the state treasury for FY 1987-88".

on page 5, line 19, beginning with the word "proportionately" and continuing through to line 22, ending with "134.800" by deleting all of this language in its entirety and inserting in lieu thereof the following:

"paid from the state road fund by the transportation cabinet from any funds appropriated to it by the general appropriations Act".

HB 537, AN ACT relating to jails and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted and sentenced to a county jail may receive a deduction of no more than thirteen (13) days a month from his sentence, except as outlined in subsection (3) of this section, to be determined by the county jailer from the conduct of the prisoner. The county jailer shall have the authority to deny a prisoner the right to receive a deduction from his sentence, if during the term of imprisonment the prisoner commits any offense or violates the rules of the jail.

(2) The jailer and the fiscal court shall develop criteria for the purpose of computing the amount of time that may be deducted from a prisoner's sentence and any prerequisite supporting documentation. The jailer shall document in the jail record the prisoner's conduct in the jail for the purpose of the prisoner being eligible to receive a deduction from his sentence.

(3) A prisoner may, at the discretion of the county jailer, be allowed a deduction from his sentence not to exceed two (2) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with jail operations and programs. Such a deduction in sentence shall be in addition to any other deductions of sentence received without regard to length of sentence.

Section 2. Whereas, good time reduction of sentences is a strong incentive which can be used to achieve desired behavior of incarcerated individuals and a tool which can be used to help control overcrowding in county jails, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to HB 537 is as follows:

Amend printed copy of HB 537:

On page 1, line 4, by deleting "*thirteen (13*";

and on page 1, line 5, by deleting "*days a month*" and by substituting therefore "*two (2) days*";

and on page 1, line 5, by inserting after the word "*sentence*" and before the comma the following: "*for every five (5) days served*".

HB 561, AN ACT relating to sheriffs, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of 75,000 or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court, and signed by the chief judge thereof. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the finance and administration cabinet.

(3) Each officer shall, on the first day of each month, send to the finance and administration cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the finance and administration cabinet the amount so collected or received. The finance and administration cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the finance and administration cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the finance and administration cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the finance and administration cabinet by *his office* [~~the officer during his official term~~].

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the finance and administration cabinet.

Section 2. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the finance and administration cabinet. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15 and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the finance and administration cabinet. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject

to the provisions of subsection (2) of this section. *No balance collected by a sheriff shall be paid to the fiscal court if, as a result of such payment, the sheriff would be required to borrow from the state, pursuant to KRS 64.140, to operate his office during the first year of a four (4) year term. It is the intent of the general assembly, by this provision, to promote stable funding of the office of the sheriff, out of seventy-five percent (75%) of the fees collected, from year to year and term to term.*

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the finance and administration cabinet.

Section 3. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the revenue cabinet. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county judge/executive. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections.

(3) Either party may institute an action in circuit court to correct the settlement. The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than seventy-five thousand (75,000) the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830. *No sheriff shall pay the fiscal court excess fees, commissions and other income from one (1) year if such payment would cause the sheriff to borrow from the state, pursuant to KRS 64.140, to operate the sheriff's office in the next year. In such case the excess from one (1) year shall be added to the sheriff's revenues for the next. It is the intent of the general assembly, by this provision, to promote stable funding of the office of the sheriff from year to year and term to term.*

Section 4. Whereas sheriffs will begin making settlements with fiscal courts for excess fees in March, 1986, an emergency is declared to exist, and this Act shall take effect when passed by the general assembly and signed by the governor.

The Committee Amendment No. 1 to HB 561 is as follows:

Amend printed copy of HB 561:

On page 5, lines 8 and 9, by deleting all of lines 8 and 9 and by substituting therefor "*paid by the fiscal court if, as indicated by the sheriffs budget, such payment would force the sheriff to borrow from the state,*"; and

on page 5, line 11, by inserting after "*term.*" the following: "*A final determination of the amount needed by the sheriff to maintain adequate cash flow for his office shall be made by April 1, of the first year of the sheriffs term, and the balance shall be paid to the fiscal court on that date.*".

HB 627, AN ACT relating to jailer training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a *jail staff* [~~local corrections~~] training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning the training needs of jailers and jail personnel. *The jail staff training program shall be directed and staffed by knowledgeable persons who have sufficient experience, training and education in jail operations. The corrections cabinet shall not charge a fee for training jailers, their deputies or jailers-elect.*

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the *jail staff* [~~local corrections~~] training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury. [~~, provided, however, that such payments shall be discontinued if the jailer fails to complete basic training within one (1) year of taking office. Thereafter,~~] Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in *subsections* [~~subsection~~] (2) *and (4)* of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In *order to receive the expense allowance for their first year in office, jailers who have been elected to said office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete such training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program* [~~any county where there is no jail and the jailer does not transport prisoners, the jailer shall not participate in the local corrections training program nor shall he receive an expense allowance pursuant to this section~~].

HB 698, AN ACT relating to corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky *or sentenced felons incarcerated in county jails* as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission *to an adult state penal or correctional institution or county jail if he is a sentenced felon,* and at such intervals thereafter as it may determine, the corrections cabinet shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The corrections cabinet shall furnish the circumstances of his offense and his previous social history to the institution and the board. The corrections cabinet shall prepare a report on such information as it obtains. It shall be the duty of the corrections cabinet to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one (1) or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt rules or regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.

(4) Whenever an order for parole is issued it shall recite the conditions thereof.

(5) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the corrections cabinet shall provide the necessary assistance and information to the board in order for it to conduct such timely parole reviews.

Section 2. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten days after the execution.

(2) *The county shall receive from the state treasury a fee for each day an inmate is incarcerated in its jail who is currently under a sentence of death or confinement in the penitentiary* [~~When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the state treasury a fee of ten dollars ($10) per day beginning on the fifth day following the day on which judgment was rendered and ending the day that the defendant is delivered to the penitentiary~~]. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

Calendar

HB 28, HB 552, HB 662, HB 585, HB 604, HB 631, HB 659, HB 692, HB 700, HB 709, SB 155, SB 156, HB 359, HB 362, HB 499, HB 633, HCR 66, HJR 78, HB 231, HB 238, HB 492, HB 518, HB 519, HB 536, HB 545, HB 622, SB 28, HCR 62, HB 208, HB 425, HB 600, and **HB 634** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported HB 49, HB 277, and HB 477 had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—2:17 p.m.)

HB 49, HB 277, and HB 477 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 344, with Committee Substitute and Floor Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Substitute to HB 344. Agreed.

Representative Overstreet moved that HB 344, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 70, Nays 20. (See February 26, 1986, roll call on HB 344—Appendix A.)

HB 344, by way of Committee Substitute, was passed.

Representative Overstreet moved the adoption of the Floor Title Amendment to HB 344. Agreed, and the title was agreed to.

Representative Overstreet moved that the vote by which HB 344, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 316, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved the adoption of the Floor Amendment No. 1 to HB 316. Agreed.

Representative Seum moved the adoption of the Committee Amendment No. 1 to HB 316. Agreed.

Representative Seum moved that HB 316, as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 40. (See February 26, 1986, roll call on HB 316—Appendix A.)

HB 316, as amended, was passed and the title agreed to.

Representative Seum moved that the vote by which HB 316, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 28, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Amendment No. 1 to HJR 28. Agreed.

Representative Noland moved that HJR 28, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1986, roll call on HJR 28—Appendix A.)

HJR 28, as amended, was passed and the title agreed to.

Representative Noland moved that the vote by which HJR 28, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 2 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that SB 2 be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See February 26, 1986, roll call on SB 2—Appendix A.)

SB 2 was passed and the title agreed to.

Representative Worthington moved that the vote by which SB 2 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Head moved that HB 436 be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 26, 1986, roll call on HB 436—Appendix A.)

HB 436 was passed and the title agreed to.

Representative Head moved that the vote by which HB 436 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 213, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 213 is as follows:

Amend printed copy of HB 213:

On page 1, line 5, by placing brackets around and striking through the words "six (6)" and by inserting before the first bracket the words "*four (4)*"; and

On page 2, line 18, by placing brackets around and striking through the words "six-year" and by inserting before the first bracket the word "*four-year*"; and

On page 2, line 18, by inserting after "*five (5)*" the word "*three-year*" and by placing brackets around and striking through the word "four-year" at the end of line 18; and

On page 4, after line 8, by inserting the following:

"Section 3. Those persons initially appointed to the financial institutions board in 1984 or thereafter who were designated for six-year terms shall be deemed to have been designated for four-year terms and those members designated for four-year terms shall be deemed to have been designated for three-year terms. The terms of such members, or their successors in the event of a vacancy, shall be adjusted accordingly. This section shall be retroactive to July 13, 1984."

Representative P. Richardson moved that the House concur in the Senate Amendment No. 1 to HB 213. Agreed.

Representative P. Richardson moved that HB 213, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 26, 1986, roll call on HB 213—Appendix A.)

HB 213, as amended by the Senate, was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HB 213, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 444, by Representative Barrows:

Amend printed copy of HB 444:

on page 6, line 18, insert the following as Section 5.

KRS 278.040 is amended to read as follows:

(1) The public service commission shall regulate utilities and enforce the provisions of this chapter. The commission shall be a body corporate, with power to sue and be sued in its corporate name. The commission may adopt a seal bearing the name "public service commission of Kentucky," which seal shall be affixed to all writs and official documents, and to such other instruments as the commission directs, and all courts shall take judicial note of the seal.

(2) The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.

(3) *In order to insure public health, safety and convenience, the commission is authorized to regulate the transportation of fossil fuels to be used by utilities to generate power.*

[~~(3)~~] (4) The commission may adopt, in keeping with KRS Chapter 13, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commission not contrary to law.

on page 6, line 18, Section 5 now becomes Section 6.

Floor Amendment No. 2 to HB 516, by Representative Lear:

Amend printed copy of HB 516:

On page 1, line 4, after "*beneficiary*" by inserting "*identified by name in the policy*"; and

On page 1, line 5, before "*insureds*" by inserting "*deceased*"; and

On page 1, line 5, after "*shall*" by inserting "*where applicable mail a proof of loss claim form to the insured or designated beneficiary under the policy within ten (10) days from receipt of notice and*"; and

On page 1, line 6, after "*or*" by inserting "*identified*"; and

On page 1, line 9, after "*the*" by inserting "*proof of loss*"; and

On page 1, line 9, after "*claim*" by inserting "*form, or in such shorter time as the commissioner shall direct by regulation*"; and

On page 1, line 10, after "*or*" by inserting "*identified*"; and

On page 1, line 17, after "*or*" by inserting "*identified*"; and

On page 1, line 18, after "*or*" by inserting "*identified*"; and

On page 2, line 1, after "*in*" by deleting "*the writing*" and inserting "*its response*" in lieu thereof; and

On page 2, line 5 and 6, after "*or*" by deleting "*if the insurer failed to provide the notification required under Section 1 of this Act*" and inserting in lieu thereof "*by settlement of claim, or has failed to respond as required under Section 1 of this Act*".

Floor Amendment No. 1 to HB 571, by Representative Arnold:

Amend printed copy of HB 571:

On page 2, lines 12 through 14, by deleting all of lines 12 through 14; and

on page 2, line 15, by deleting "*the particular circumstances*"; and

by inserting after line 11 in place of the deleted material the following:

"*able to resume the performance of his duties, or, in the case of the resignation or death of the treasurer, until the end of the current county treasurer's term of office. Should the fiscal court be in doubt as to the treasurer's ability to resume his duties, it shall consult with a licensed physician acceptable to both the fiscal court and the treasurer. If the physician advises that the treasurer is able to perform his duties, the treasurer shall be reinstated.*".

Floor Amendment No. 1 to HB 709, by Representative Bruce:

Amend printed copy of HB 709:

On page 27, line 13 after "*bank*" by adding "*, as defined in KRS 287.900,*"

On page 27, line 14 by deleting the words "*make application to*".

Floor Amendment No. 1 to SB 158 by Representative J. Harper:

Amend printed copy of GA copy of SB 158:

On page 88, line 13, by inserting after "Section 31." the following:

"KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the legislators' retirement plan, state police retirement system, Kentucky employes' retirement system, county employes' retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes' retirement system or county employes' retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes' retirement system or county employes' retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system who becomes the holder of an office entitling him to membership in the judicial retirement plan or the legislators' retirement plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system. In that event, the agency employing the member shall withhold employe contributions, or picked up employe contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the judicial retirement plan or the legislators' retirement plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the teachers' retirement system, *may, the provisions of KRS 61.525 notwithstanding,* [~~shall~~] participate in the Kentucky employes' retirement system.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes' retirement system or the county employes' retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is

permitted by that system to continue is hereby exempt from participating in the Kentucky employes' retirement system or the county employes' retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system and who does not elect within thirty (30) days after taking office to participate in the legislators' retirement plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky employes' retirement system unless an election to retain membership in the teachers' retirement system is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the teachers' retirement system for the same period of service under the legislators' retirement plan or the Kentucky employes' retirement system as a member of the general assembly, but contributions made to the teachers' retirement system while a member of the general assembly shall be transferred to the legislators' retirement plan as provided for in KRS 6.535 when the member elects to join the legislators' retirement plan, and service credit in the legislators' retirement plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974 any member of the Kentucky employes' retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employe contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes' retirement system or county employes' retirement system who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the state police retirement system, Kentucky employes' retirement system, county employes' retirement system or teachers' retirement system, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the judicial retirement plan or legislators' retirement plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 32.".

A special meeting of the Committee on Labor was announced for Thursday, February 27, 1986, 11:15 a.m., Room 107.

Representative Rose moved the adoption of the following Legislative Citation No. 41:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, BILL "McBUBBLE" McBee and RONNIE "QUICK SHOT" LAYMAN did rest the Legislative Basketball Championship from JERRY "MR. YANG" BRONGER AND LARRY "LAY UP" CLARK by a resounding score of 30-14.

Be it resolved by the House, that because of this spectacular display of athletic ability the House of Representatives should adjourn in their honor, but be it know that because of "McBUBBLE'S" abusive conduct to the official the winners will not receive this year's Sportsmanship Award. (Sponsored by Representative Rose)

Agreed.

Representative Deskins moved that HB 756 be withdrawn. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 40:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates MR. AND MRS. KENTON G. DOWNEY of Woodford County, Kentucky, on the birth of their son, William Kendall, who entered this world Sunday, February 16, 1986, weighing nine pounds and reclining twenty-one and a half inches long.

May this bodacious event bring you joy and happiness throughout the years. Further, William Kendall Downey's birth is heralded by the light of a recurring celestial body, the hopes of a session of this prestigious body and the promise of a brighter tomorrow.

This body extends its best wishes to Kenton G. Downey, one of this body's most loyal employes, to Eileen Downey, a loving mother and to little William Kendall, one of the hopes for Kentucky's future. (Sponsored by Representative Barrows)

Agreed.

Representative Scorsone moved the adoption of the following Legislative Citation No. 39:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the MANCHESTER CENTER, 1026 Manchester Street, Lexington, Kentucky, a nonprofit Social Services Agency founded by volunteers, in 1940. In 1960 your programs grew so as to provide such facilities as office space, a gymnasium, a kindergarten and kitchen space. Your contributions were exemplary of your humanitarian and benevolent spirit. Your leadership and profound interest in providing educational opportunities and social services to people of all ages is most noteworthy. Your program has expanded from its start in Irishtown to surrounding areas as: Thompson Road, Westminster Village, Davistown, Speigle Heights, and Woodward Heights. The Manchester Center is a vital and essential facility with an invigorating nucleus for providing for the needs of the people in your community and you play an indispensable role. Accept our highest accolades for the programs you have implemented which help to enhance individual and community health and responsibility. The prestigious body applauds and salutes you, and we extend best wishes on future endeavors as you try to enrich the lives of your fellowman and the Lexington community. (Sponsored by Representative Scorsone)

Agreed.

Representative Lyne moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Lyne moved the adoption of the following HR 103:

HR 103, A RESOLUTION adjourning the House of Representatives in honor of Russellville attorney George Sam Milam.

With deepest respect we pay tribute to our friend and former colleague George Sam Milam upon the occasion of being honored as Russellville Citizen of the Year.

WHEREAS, Sam Milam was born in Beechland, north of Lewisburg on September 3, 1905, the son of J.E. and Cora Brown Milam; and

WHEREAS, Sam Milam attended Beechland Grade School and then the Lewisburg School, riding horseback to attend classes; and

WHEREAS, Sam Milam finished high school at Bethel and graduated from Bethel College in Russellville; and

WHEREAS, Sam Milam studied arts and sciences at the University of Kentucky and law at the University of Florida and the University of Chicago, being admitted to the Bar on June 18, 1929; and

WHEREAS, Sam Milam was a diligent servant of the people representing the 16th district of the House of Representatives form 1934 until 1942 and the 5th Senatorial district from 1944 until 1946; and

WHEREAS, while in Frankfort, Sam Milam met his bride of fifty-one years, Ms. Justine Cook of Carroll County; and

WHEREAS, Sam and Justine Milam have been blessed with three sons, George Samuel Jr., a music director with the Marshall County Schools in Benton; James Campbell, a Russellville attorney; and William Tandy, an electrical engineer in Westchester, Ohio as well as eight grandchildren and three great-grandchildren; and

WHEREAS, Sam Milam has dedicated his life to the practice of law, has been a quiet leader, and has altruistically devoted his time and energies to the citizens of Logan County; and

WHEREAS, Sam Milam has been a practicing attorney in Russellville for 57 years; and

WHEREAS, Sam Milam has been the teacher of the Men's Bible Class at First Baptist Church for over fifty years with the last thirty years of his Sunday morning lessons being broadcast over WRUS radio; and

WHEREAS, Sam Milam has served for 25 years as the administrator of the deGraffenried legacy; and

WHEREAS, the deGraffenried legacy was instituted in 1961 upon the death of Thomas P. deGraffenried, a native of Russellville, who left a million dollars to the citizens of Russellville "for the education of the people at large therein"; and

WHEREAS, as guardian of the deGraffenried fund, Sam Milam has overseen the construction of a regional public library, an auditorium and a lobby at the Russellville High School, the building of Stevenson Elementary and a vocational school, as well as annually providing $1500 dollars for a special education teacher and special testing, $16,500 to support teachers' salaries for speech, drama, music and journalism; and

WHEREAS, under the stewardship of Sam Milam, the deGrafenried fund has purchased computers for the school system, enhanced the band and chorale programs and provides an annual scholarship program of $8,000 dollars; and

WHEREAS, Sam Milam has been recognized by his peers as the "Dean of the Logan County Bar Association" and enjoys the highest reputation of integrity and character; and

WHEREAS, the writers of *The Logan Leader* and *The News-Democrat* have been bestowing a Citizen of the Year award since 1964 to individuals who have made unusual contributions to the community; and

WHEREAS, the 1986 recipient of the Citizen of the Year award is George Sam Milam for his immeasurable contributions to the citizens and community since 1929;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body hereby honor and commend George Sam Milam upon the occasion of being named as Russellville Citizen of the Year.

Section 2. That the House hails Sam Milam to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Wednesday, February 26, 1986, it does so in honor of its native son George Sam Milam.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to the Honorable Sam Milam and the Russellville, Logan County *News-Democrat.*

HR 103 was adopted by voice vote.

Representative Lyne moved that a call of the roll be taken to show co-sponsors of HR 103. Agreed.

The following members requested that their names be added as co-sponsors of HR 103: Allen, Arnold, Bendl, Blevins, Brinkley, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Cyrus, Deskins, Ellington, Ford, Gedling, Guenthner, Hancock, Head, Holbrook, Holloway, Jensen, Kerr, Lefevers, Little, Lyne, Mack, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Napier, Noland, Preston, Priddy, Pritchett, Richards, P. Richardson, Rose, Siler, Smith, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Yates.

Representative Guenthner moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Guenthner moved that he be recorded as voting "yea" on HB 485, "yea" on HB 502, "yea" on HB 521, and "yea" on HB 572. Agreed.

Representative Cowan moved that he be recorded as voting "nay" on HB 344. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on HB 502. Agreed.

A meeting of the Committee on Judiciary-Criminal was announced for Thursday, February 27, 1986, on adjournment.

A meeting of the Committee on Natural Resources and Environment was announced for Thursday, February 27, 1986, 8:30 a.m.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 789, by Representative Richards: AN ACT relating to local boards of education.

HB 790, by Representative Richards: AN ACT relating to emergency medical services and making an appropriation therefor.

HB 791, by Representatives L. Clark and Bronger: AN ACT relating to chiropractors.

HB 792, by Representative Farrow: AN ACT relating to church buses.

HB 793, by Representatives Gray and Curd: AN ACT authorizing the procurement of liability insurance for the protection of state enforcement officers.

HB 794, by Representatives Thomas, Burch, Bronger, Donnermeyer, Layman, McBee, Bennett, Crupper, P. Richardson, L. Clark and K. Harper: AN ACT relating to horse racing.

HB 795, by Representatives Farrow, Long, R. Jones, Smith, Holloway, Turner and Holbrook: AN ACT relating to comparative fault.

HB 796, by Representative Hancock: AN ACT relating to the Teachers' Retirement System, and declaring an emergency.

HB 797, by Representatives Crupper, Gedling, Kerr and Rapier: AN ACT relating to the promotion of tobacco.

HB 798, by Representative Dawahare: AN ACT relating to wild rivers.

HB 799, by Representatives Todd, Keith, Jensen, Yates, B. Richardson, M. Brown, Preston, Ford, Maggard and Long: AN ACT relating to insurance.

HB 800, by Representatives Todd, Guenthner, Jensen, Head, Yates, Preston, M. Brown, Ford and B. Richardson: AN ACT relating to fees of attorneys.

HB 801, by Representative Kerr: AN ACT relating to mass transit authorities.

HB 802, by Representative Pearman: AN ACT relating to Supreme Court districts.

HB 803, by Representative Brinkley: AN ACT relating to administrative regulations.

HB 804, by Representatives Blevins and Yates: AN ACT relating to forestry.

HR 104, by Representatives Heleringer and Guenthner: A RESOLUTION honoring Trinity High School's cross country team.

HR 105, by Representatives Allen and Siler: A RESOLUTION requesting the public service commission to study the feasibility of providing all residents of Butler County toll-free access to their county seat.

HJR 106, by Representatives T. Jones and Noe: A JOINT RESOLUTION establishing the Governor's Commission on School Finance.

HJR 107, by Representative Brinkley: A JOINT RESOLUTION establishing the Hopkins County Coal Park Task Force.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: SB 139.

Appropriations and Revenue: HB 736, HB 749.

Energy: SCR 2, HB 745.

Judiciary-Criminal: HB 774.

State Government: HB 456, HB 678.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 27, 1986.

On the roll call the vote was yeas 80—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Jensen, Johnson, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, McBee, McNutt, Meyer, Moberly, Napier, Nett, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stone, Strong, Stumbo, Todd, White, Worthington, Yates. Nays 6—Deskins, Guenthner, Heleringer, Holbrook, Mann, Overstreet.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 27, 1986

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 26, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 260 and HB 41.

Introductions of Bills and Resolutions

HB 805, by Representatives O'Brien and Holloway: AN ACT relating to theft by deception.

HB 806, by Representatives Todd and Crupper: AN ACT relating to motor carriers.

HB 807, by Representative Clapp: AN ACT relating to investments.

HB 808, by Representatives Guenthner, Thomas and Bennett: AN ACT relating to employment agencies.

Report of Committees

The Committee on Rules reported HB 208, HB 231, HB 238, HB 359, HB 362, HB 492, HB 518, HB 519, HB 552, HB 600, HB 604, HB 622, HB 634, HB 659, HCR 62, HCR 66, HJR 78, SB 28, SB 156, HB 75, HB 500, HB 120, HB 266, HB 551 and HB 611 have been posted for passage in Orders of the Day, February 28, 1986.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: HB 662 and HB 535.

The Committee on Appropriations and Revenue reported HB 219, with Committee Substitute and Committee Title Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to HB 219 is as follows:

HB 219, AN ACT relating to public school sports medicine programs and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

It is the intention of the general assembly of the Commonwealth of Kentucky to create an experimental incentive sports medicine program to encourage local school districts to provide such programs for students involved in interscholastic sports. The purpose of the program is to reduce the rate of injuries and re-injuries by developing sports medicine programs that will improve the health care and safety of student athletes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Teacher-trainer" means a teacher who holds a valid Kentucky teaching certificate and who is an athletic trainer certified under KRS 311.900 to 311.928;

(2) "Experimental sports medicine program" means a program recommended by the advisory council for sports medicine programs and approved by the superintendent of public instruction and the state board of education for providing assistance to local school districts in developing and operating sports medicine programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

An advisory council for sports medicine programs is created and attached to the state board of education to develop and recommend to the superintendent of public instruction, the state board of education, and the general assembly an experimental program of sports medicine for local school districts.

(1) The council shall be composed of eleven (11) voting members appointed by the governor by August 1, 1986 and one (1) non-voting, ex officio member. It is recommended that:

(a) Two (2) members be superintendents of local school districts, one (1) of which shall have a sports medicine program in operation;

(b) One (1) member be a principal of a local school district high school which participates in major interscholastic sports and has a sports medicine program;

(c) One (1) member be a coach of a major interscholastic sport and an officer of the Kentucky high school athletic association's coach's association;

(d) One (1) member be a certified athletic trainer in a public high school;

(e) One (1) member be an officer of the state athletic directors' association;

(f) One (1) member who shall be a physician and chairman of the Kentucky medical association's school health, physical education and medical aspects of sports committee;

(g) Two (2) members be physicians recommended by the chairman of the Kentucky medical association's school health, physical education and medical aspects of sports committee;

(h) One (1) member of the board of control of the Kentucky high school athletic association;

(i) One (1) member be a university faculty member involved in preparation programs for athletic trainers; and

(j) The superintendent of public instruction, or his designee serve as an ex officio, non-voting member.

(2) All voting members shall serve terms of four (4) years except that the original appointments shall be made as follows:

(a) Four (4) members for four (4) year terms;

(b) Four (4) members for three (3) year terms; and

(c) Three (3) members for two (2) year terms.

(3) Members may be reappointed to the council for successive terms. Vacancies shall be filled by the governor as they occur in a manner consistent with the provisions for initial appointment.

(4) The advisory council shall elect a chairman annually from its membership.

(5) The members shall be remunerated for actual and necessary expenses incurred while attending meetings of the state advisory council for sports medicine programs or while serving in the capacity as a representative of the council.

(6) The council shall meet at least three (3) times each year at such times and places as it determines by resolution.

(7) The powers and duties of the council shall be to:

(a) Advise the superintendent of public instruction in matters pertaining to the overall health and well-being of student athletes;

(b) Define the goals and objectives of a sports medicine program for the Commonwealth's local school districts;

(c) Determine the role of the teacher-trainer in the schools;

(d) Determine eligibility criteria for local school districts to receive funding through the experimental program, receive program applications, and select districts meeting those criteria;

(e) Recommend to the superintendent of public instruction and the state board of education a formula for the distribution of funds to participating school districts;

(f) Recommend to the superintendent of public instruction and the state board of education school districts to receive assistance under the program;

(g) Develop an evaluation procedure to monitor the activities of the sports medicine program; and

(h) Determine state-wide needs for a sports medicine program and make recommendations to the state board of education, the superintendent of public instruction, and the general assembly relative to alleviating those needs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The state board of education with the recommendations of the advisory council for sports medicine programs shall implement an experimental incentive program to assist local school districts in developing sports medicine programs in schools sponsoring interscholastic sports.

(2) Funds appropriated to the state board of education by the general assembly or funds donated under KRS 156.035(2) to the state board of education from private sources for the program shall be awarded according to the funding formula approved by the state board of education.

(3) Funding criteria shall include:

(a) Provisions for selection of at least one (1) school district from each of the sixteen (16) regions established by the Kentucky high school athletic association for the state basketball tournament if applicants meet participation criteria. If no school district in a region meets the participation criteria, then the state board of education may select more than one (1) district from another region;

(b) No school shall be eligible for a grant for more than three (3) years and no district shall receive a grant for more than one (1) school while there are eligible local districts applying for funds who have not received a grant; and

(c) Funds granted to school districts under this program shall only be expended for teacher-trainer stipends.

The Committee Title Amendment to the Committee Substitute to HB 219 is as follows:

Amend printed copy of Title Amendment to the Committee Substitute for HB 219:

On page 1, in the title, delete "and making an appropriation therefor".

The Committee on Appropriations and Revenue reported HB 408 with Committee Amendment attached thereto, HB 409 with Committee Amendment attached thereto, and HB 410 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 408, AN ACT relating to the utility gross receipts license tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three per cent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, electric power, water, [~~and~~] natural, artificial, and mixed gas*, and cable television services. The term "within the county", as it applies to telephonic and telegraphic services, shall include such services originating in the county.* "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of electrical energy *or natural gas* purchases the electrical energy *or natural gas* directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all electrical energy *or natural gas* received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying.

The Committee Amendment No. 1 to HB 408 is as follows:

Amend printed copy of HB 408:

On page 1, line 2, after "(1)" insert "*(a)*";

On page 1, line 8, delete all new language beginning with the word "the" through the word "*county*" on line 10;

On page 2, line 2, before (2) insert the following:

"*(b) For the purposes of this section, "telephonic and telegraphic communications services" means the electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or that may be devised, including intrastate message toll, WATS and private line services. Telephonic and telegraphic communications services do not include:*

1. The storage of data or information for subsequent retrieval or the processing or reception and processing, of data or information intended to change its form or content are not included in telephonic and telegraphic communications services;

2. Sales of telephonic or telegraphic communications service which originate in this state and terminate in another state or terminate in this state and originate in another state; and

3. Sales of telephonic or telegraphic services which will be used in the provision of telephonic or telegraphic services.

(c) For the purpose of determining the proper local tax, the sale of telegraphic services is consummated at the location of the telephone or other telecommunications device from which the call or other transmission originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call is billed."

HB 409, AN ACT relating to state ad valorem taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half (31-1/2) cents upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five (25) cents upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen (15) cents upon machinery of individuals or corporations actually engaged in manufacturing, fifteen (15) cents upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen (15) cents upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, twenty-five (25) cents upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five (45) cents upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half (1-1/2) cents upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state.

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto.

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.

(6) Thirty (30) cents of the thirty-one and one-half (31-1/2) cents state tax rate on real property and thirty (30) cents of the forty-five (45) cents state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty (30) cents, as certified by the department of education, the direct payments shall be reduced proportionately.

(7) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the [~~aggregate~~] assessed value of real property, *exclusive of the assessed value of new property,* to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(8) By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(9) In the event that the tax rate set by the cabinet as provided in subsection (8) of this section produces more than a four percent (4%) increase in real property tax revenues, *exclusive of revenue from new property,* the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase, *exclusive of revenue from new property,* shall not exceed four percent (4%) per year.

(10) An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calendar Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

(11) Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

The Committee Amendment No. 1 to HB 409 is as follows:

Amend printed copy of HB 409:

On page 5 line 1, by inserting after the first "of" the following:

"*any increase resulting from*".

HB 410, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 133.110 is amended to read as follows:

County judges/executive may, after giving notice to the *appropriate local school board, the* county attorney, sheriff and property valuation administrator, correct any mere clerical errors in an assessment or any duplication of assessment. Any correction *of mere clerical errors* made without such notice, *or any other changes in an assessment, made by a county judge/executive,* shall be void.

The Committee on Appropriations and Revenue reported HCR 65, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to HCR 65 is as follows:

Amend printed copy of Committee Substitute for HCR 65:

On page 2, line 7, by inserting after the word "budget" and before the "period punctuation mark", the following: ", except in time of war".

The Committee Amendment No. 2 to the Committee Substitute to HCR 65 is as follows:

Amend printed copy of Committee Substitute for HCR 65:

On page 1, line 4, by deleting the language on line 4 following the word "balanced", and by deleting the "comma" following the word "balanced" and inserting in its place a "period punctuation mark", lines 5 through 7, by deleting the language on lines 5 through 7,

line 17, by deleting language on line 17 following the word "necessary" and by deleting the "comma" following the word "necessary" and inserting in its place a "period punctuation mark",

lines 18 and 19, by deleting the language on lines 18 and 19.

On page 2, line 10, by deleting the language on line 10 following the word "nation" and by deleting the "comma" following the word "nation" and inserting in its place a "period punctuation mark",

lines 11 through 16 by deleting the language on lines 11 through 16.

The Committee on Labor and Industry reported **HB 360** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 360, AN ACT relating to minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employes wages at a rate of not less than *three dollars and thirty-five cents ($3.35)* [~~two dollars sixty cents ($2.60)~~] an hour.

(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips from patrons or others, the employer may pay as a minimum fifty percent (50%) of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

The Committee on Natural Resources and Environment reported **HB 152** with Committee Amendment attached thereto, **HB 294**, **HB 482**, **HB 674**, and **HJR 81** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 152, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The secretary for human resources may by regulation require licensees of radioactive materials to provide an adequate surety or other financial arrangement in such amount as the secretary deems reasonably appropriate to cover potential clean-up costs in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the secretary regarding a radioactive material accident or other public health hazard created by the presence of radioactive material at a site occupied by the licensee or formerly under its possesion, ownership, or control. Acceptable sureties would include bonds issued by fidelity or surety companies authorized to do business in Kentucky, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts or such other types of arrangements, but not including any arrangement which essentially constitutes self insurance. The secretary shall be the obligee of the surety and the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning up and decontaminating the area or property involved. Failure to comply with any regulation promulgated to carry out this section by any licensee shall result in automatic revocation of such license by operation by law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter that relate to the issuance of certificate of need shall not apply to county and district health departments in all instances where those agencies may elect to expand their ambulatory care services for the purpose of insuring that general medical care is available and accessible to indigent citizens.

This exemption shall specifically include and permit Medicaid reimbursement for services covered by that program, and shall permit local and district health departments to seek and obtain licensure as rural health clinics and primary care centers for purposes of Medicaid reimbursement. Nothing in this chapter shall be construed to in any way infringe upon a county or district health department's provision of general public health services, regardless whether those services relate to Medicaid eligibles and other indigents not eligible for Medicaid.

Section 3. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for such systems that have a surface discharge.

(2) No person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet. Such construction, installation or alteration shall be performed by a person licensed pursuant to KRS Chapter 318 and shall be performed in accordance with KRS 318.010 and 318.030.

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit where the cabinet through a duly authorized inspector, employe or agent finds that the system was not constructed, installed, or altered in conformance with such permit and regulations issued by the cabinet.

(4) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system *including*[~~,~~] results of an approved percolation test in the area where the proposed system is to be located *if required by the cabinet by regulation* and additional soils and other information *relative to the area in which the proposed system is to be installed,* as directed by the cabinet by regulation.

(5) The cabinet shall fix a reasonable schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. Such fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(6) Any regulation relating to on-site sewage disposal that is in effect on *the effective date of this Act* [~~July 15, 1982,~~] shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(7) All records necessary to properly carry out this section shall be transferred from the department of housing, buildings, and construction to the cabinet for human resources.

Section 4. KRS 211.901 is amended to read as follows:

(1) The secretary *may* [~~shall~~] establish a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.

(2) The secretary *may* [~~shall~~] also initiate activities which:

(a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;

(b) Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality or private organizations which cannot secure or provide such services through other sources. The cabinet shall not assume responsibility for blood lead analysis required for programs in operation on June 21, 1974;

(c) Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and

(d) Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.

(3) The secretary may contract with any agencies, individuals, or groups for the provision of services necessary to administer KRS 211.900 to 211.905 and 211.994.

(4) The secretary may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.

(5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 211.900 to 211.905 and 211.994. The regulation *may* [~~shall~~] include, but not be limited to, those which govern permissible limits of lead based substances in and about dwellings and dwelling units.

(6) Local boards of health may, by the adoption of local regulations, establish programs for the prevention, screening, diagnosis and treatment of lead poisoning; provided that such regulations are the same as the provisions of KRS 211.900 to 211.905 and 211.994 and the regulations promulgated by the secretary pursuant to subsection (5) of this section.

Section 5. KRS 211.903 is amended to read as follows:

(1) Testing for lead poisoning *may* [~~shall~~] be an eligible benefit for recipients of the Commonwealth's medical assistance program. Testing for lead poisoning *may* [~~shall~~] be made available as part of the regular immunization program offered by the cabinet and *may* [~~shall~~] be provided without charge by the cabinet and by local health departments.

(2) The secretary *may* [~~shall~~] establish programs throughout the Commonwealth, with priority given to high risk areas, for the voluntary screening and diagnosis of at risk persons. Such programs *may* [~~shall~~] systematically test for elevated lead blood levels in all at risk persons under six (6) years of age and shall include an outreach program if necessary. Priority *may* [~~shall~~] be given to at risk persons who are one (1) year of age through three (3) years of age. Such programs shall not apply to those persons having religious objections to such testing. Such testing *may* [~~shall~~] be made by such means and at such intervals as the secretary shall by regulation determine may be medically necessary and proper.

(3) The secretary *may* [~~shall~~] be responsible for providing follow-up screening and diagnostic programs for those persons who were previously diagnosed and treated for lead poisoning or were previously diagnosed as having an elevated lead blood level. The frequency with which follow-up *may* [~~shall~~] be performed shall be determined by the secretary.

Section 6. KRS 211.904 is amended to read as follows:

The secretary *may* [~~shall~~] establish an educational program to inform parents, teachers, personnel of human resource agencies, owners of dwellings and dwelling units, health service personnel and the general public, of the dangers, frequency, and sources of lead poisoning and the methods of preventing such poisoning.

Section 7. KRS 211.905 is amended to read as follows:

(1) When notified that an occupant of a dwelling or dwelling unit is found to have an elevated blood level, an authorized representative of the cabinet *may* [~~shall~~] inspect the dwelling and dwelling unit, at reasonable times, for the purpose of ascertaining the existence of lead based substance. The representative of the cabinet shall present proper credentials to the owner or occupant of the dwelling or dwelling unit prior to inspection of the premises. Such representative may remove samples necessary for laboratory analysis, in the determination of the presence of lead based substances in the designated dwelling or dwelling unit.

(2) Upon determination by the cabinet that there are lead based substances in or upon any dwelling or dwelling unit which may be hazardous to children, or upon receipt of confirmation that an occupant has a level of lead in his blood in excess of permissible limits set out in regulations promulgated by the secretary, the cabinet shall:

(a) In the event that small children reside in the premises, notify the owner and occupant that lead based substances are present on the surfaces of the dwelling or dwelling unit and may constitute a hazard to the health of children;

(b) Inform the local health officers of the results of such determination and provide suitable recommendations for elimination of the problem areas;

(c) Notify the owner of the dwelling or dwelling unit, in writing, advising of the existence of such substances with instructions that these substances, if accessible to children under the age of six (6), shall be removed, replaced, or securely and permanently covered within a time period not to exceed thirty (30) days and in a manner prescribed by the cabinet.

(3) The removal of the lead based substances from the dwelling or dwelling unit shall be accomplished by the owner in a manner which will not endanger the health or well-being of its occupants, and result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, and other potentially harmful materials.

(4) In the event that the owner of the dwelling or dwelling unit does not remove, replace, or securely and permanently cover the lead based substances designated as hazardous within thirty (30) days, the cabinet shall cause to be posted upon the dwelling or dwelling unit identified as containing lead based substances, a notice of the existence of such substances and the declaration that the dwelling or dwelling unit is unfit for human habitation for those persons under six (6) years of age. The dwelling or dwelling unit shall remain posted until the owner has complied with the orders of the cabinet.

(5) Determination by the cabinet that a child under six (6) years of age is in immediate danger from the presence of lead based substances in or upon a dwelling or dwelling unit shall be cause for release from a rental agreement without prejudice to the occupant.

SECTION 8. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The county or city-county board of health operating a county or city-county health department which has not appointed a health officer shall designate from among its covered merit system employes an executive officer, subject to the approval of the cabinet for human resources.

(2) An executive officer may, with the approval of the cabinet for human resources and the county boards of health concerned, serve in such capacity for more than one (1) county.

(3) An executive officer shall act as chief administrative officer and secretary of the board.

(4) The executive officer shall employ and fix the compensation of, by contract or otherwise, subject to the approval of the state cabinet for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the county or city-county health department in accordance with standards and local health department merit system provisions prescribed by the cabinet for human resources.

Section 9. KRS 212.020 is amended to read as follows:

(1) The secretary of the cabinet for human resources shall appoint three (3) qualified licensed and practicing physicians and one (1) qualified licensed and practicing dentist and one (1) qualified practicing registered nurse and one (1) qualified licensed and practicing veterinarian and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. In the event a county does not have three (3) qualified licensed and practicing physicians or one (1) qualified licensed and practicing dentist or one (1) qualified and licensed practicing registered nurse or one (1) qualified licensed and practicing veterinarian [~~or one (1) lay person knowledgeable in consumer affairs~~] residing therein, the secretary of the cabinet for human resources may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years *with physicians and dentists appointed on even years and nurses, veterinarians, lay appointments and fiscal court appointees appointed on odd years for terms beginning July 1* [~~from the date of their appointment,~~] and until their successors are appointed. *Except where there are no other providers residing in the county or willing to serve, an appointed member of a county or city-county board of health shall not serve more than two (2) consecutive terms of office.* The members of the board shall receive no compensation for their services.

(2) The secretary may remove any board member he appoints as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 10. KRS 212.170 is amended to read as follows:

(1) The county board of health of each county having a county department of health *may* [~~shall~~], subject to the approval of the state cabinet for human resources, appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the state department for human resources.

(2) A health officer may:

(a) With the approval of the cabinet for human resources and the local boards of health concerned, serve in such capacity for more than one county; and

(b) At the discretion of the local board, act as chief administrative officer of the board.

[~~(3) A health officer may appoint an administrative assistant for each county served by him subject to the approval of the state cabinet for human resources. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.~~]

(3)[~~(4)~~] A health officer *shall be the executive officer of the department and shall* [~~may~~] employ and fix the compensation of, by contract or otherwise, subject to the approval of the cabinet for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the cabinet for human resources.

(4)[~~(5)~~] In the absence of a local health officer, the secretary of the cabinet for human resources or his duly appointed representative shall serve as health officer for the county concerned.

Section 11. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) [~~Appoint a health officer and fix his salary subject to the approval of the cabinet for human resources;~~

~~(b)~~] Hold a regular meeting at least once every three (3) months and such other special or regular meetings as may be desired and keep full minutes of all the proceedings in a book provided for this purpose;

(b)[~~(c)~~] Adopt, except as otherwise provided by law, such rules and regulations not in conflict with the rules and regulations of the cabinet for human resources, as may be necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(c)[~~(d)~~] Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(d)[~~(e)~~] Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, where the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of;

(e)[~~(f)~~] Perform all other functions necessary to carry out the provisions of law and the rules and regulations adopted pursuant thereto, relating to local boards of health;

(2) *County, city-county, and district boards of health may:*

(a) Appoint a health officer and fix his salary subject to the approval of the cabinet for human resources;

(b) Receive and accept gifts and endownments of every kind including gifts and endowments for special purposes and may receive grants from the federal government. Monies acquired through gifts, endowments or grants shall be deposited in a trust or agency fund to be used for the purposes for which they are received. Gifts or endowments with special restrictions as to use or purpose shall be expended in accordance with such restrictions; and

(c) The board may mortgage, pledge, sell or convey lands or goods so received unless specifically prohibited by the terms of the gift, proceeds therefrom to go to the credit of a trust or agency fund.

(3) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 12. KRS 212.260 is amended to read as follows:

(1) *If a county or city-county board of health has appointed a health officer,* [~~The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the cabinet for human resources and county boards of health.~~

~~(2)~~] the health officer [~~of a county that has formed a county department of health~~] shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county *or city-county* board of health and keep full minutes of the proceedings of the county *or city-county* board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county *or city-county* health department*; and*

(d) Fix the compensation of, by contract or otherwise, subject to the approval of the cabinet for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the cabinet for human resources.

(2) In the absence of a local health officer, the secretary for human resources or his duly appointed representative shall serve as health officer for the county or city-county concerned.

Section 13. KRS 212.850 is amended to read as follows:

(1) Fiscal courts of all counties uniting to establish a district health department shall certify to the cabinet a copy of their resolution for establishing a district health department and providing for its maintenance and operation, and specifying the amount of the appropriation therefor.

(2) If the cabinet finds that such a district health department has been proposed in accordance with the provisions of KRS 212.810 to 212.930 and that the appropriations are adequate, the cabinet shall enter an order declaring the district to be established and a copy of the order shall be filed with the secretary of state and with the county clerk of each county concerned. When a district department of health is created all powers and duties of the county boards of health, except as otherwise provided in KRS 212.920, under existing statutes are transferred to the district board of health. *The district board of health may, however, subject to the approval of the cabinet for human resources, delegate the regulation of subsurface sewage programs to a county board of health within the district.* The cabinet shall, on or before July 1 in each year, allot to each such district health department such amount that the cabinet deems to constitute a just and equitable share of funds available therefor from appropriation by the general assembly, by grants and gifts received by this Commonwealth from the government of the United States of America or from any of its agencies or instrumentalities, and from other sources.

(3) In determining the allotments referred to in subsection (2) of this section, the cabinet shall endeavor to provide for a distribution of the funds in a manner that is reasonably calculated to equalize, so far as practicable, local health services to the people of all counties served by the district health department. The cabinet may take into consideration variations existing between districts by reasons of difference in population, resources, industrialization, tax assessments and tax rates, and other local factors and conditions; the legislative intent being hereby declared to be that districts shall provide, from local sources of revenue that are available to them, financial support of district health departments to the extent of their respective abilities.

(4) The cabinet may, in its discretion, alter or modify allotments from time to time and may cancel any allotment whenever it finds that a particular district health department is not maintained, operated and conducted in accordance with the standards prescribed by the cabinet. Nothing in this section shall be construed as requiring the cabinet to allot all funds available for local health purposes, or as prohibiting the cabinet from allotting such portion thereof, as the cabinet may determine, to a reserve account which may be sub-allotted by the cabinet in such manner that it considers proper in the event of emergencies, disaster or unforeseen events without regard to the provisions of subsection (3) of this section.

Section 14. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class or an urban-county government, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per 15,000 population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member *except that in no event shall the number of members from any one (1) county exceed seven (7) in number.*

(2) All members except for the county judges/executive and the mayors of second class cities shall be *elected by the county boards of health from the membership of each county board of health:* [~~appointed by the secretary of the cabinet for human resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within seventy-five (75) days of receipt of his request. In the event a fiscal court fails to respond within the prescribed seventy-five (75) day period, the county judge/executive of said county shall be authorized to compile and submit, within ten (10) days, his county's nominations to the secretary. In the event the county judge/executive does not respond within the prescribed time, then the secretary shall be authorized to compile, or have compiled, the nominations for such county.~~]

(a) *The secretary of the cabinet for human resources shall notify the chairman of each county board of health in the district of the name of each member from that county whose term is expiring;* [~~The list of nominations submitted to the secretary pursuant to this subsection shall include two (2) nominations from each of the following:~~

~~1. The fiscal court of each county;~~

~~2. The county board of health of each county;~~

~~3. The county medical society;~~

~~4. The county dental society;~~

~~5. The district nursing association;~~

~~6. Veterinarians from the county, when available.~~]

(b) *Upon receipt of this notification, each county board of health shall elect one (1) of its members to fill each vacant position from that county. The elected members of a district board of health shall include at least one (1) physician; and* [~~At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the board shall be doctors of medicine or osteopathy licensed in the Commonwealth, and there shall be at least one (1) licensed registered nurse, one (1) dentist and one (1) veterinarian, when available among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.~~]

(c) The chairman of the county board shall inform the secretary within forty-five (45) days of receipt of his notification of the names of the county board of health members elected to serve on the district board.

(3) In the event a vacancy exists upon the district board, said vacancy shall be filled in a manner consistent with subsection (2) of this section with the *elected member* [~~nominee~~] to fill the vacant seat coming from the county in which the vacancy occurs and the *elected member* [~~nominee~~] resides. *If a member's term on the county board of health expires, his term on the district board of health expires, his term on the district board of health shall be declared vacant and the county board shall elect another of its members to fill the unexpired portion of the term.*

(4) The *elected* [~~appointed~~] members of the district board of health shall hold office for a term of two (2) years ending on June 30 or until their successors are *elected* [~~appointed~~]; provided, however, that the terms of the first appointments shall be staggered in such a manner that not less than one-half (1/2) the members shall be appointed for a term of one (1) year or until their successors are *elected* [~~appointed and qualify~~]. No [~~appointed~~] member of a district board of health *elected by a county board of health* shall serve more than two (2) consecutive terms of office.

Section 15. KRS 212.870 is amended to read as follows:

(1) *If a district board of health has appointed a district health officer, the* [~~A~~] district health officer *shall* [~~may~~] employ and fix the compensation of, by contract or otherwise, subject to the approval of the cabinet all medical, administrative, technical, clerical, professional and other employes necessary for the maintenance and operation of the district health department in accordance with standards and merit system provisions prescribed by the cabinet.

(2) In the absence of a district health officer the secretary of the cabinet for human resources or his duly appointed representative shall serve as health officer for the district health department.

(3) *If the district board of health has not appointed a health officer, the district board shall designate from among its employes, subject to the approval of the cabinet for human resources, an executive officer who shall:*

(a) Be the chief administrative officer of the district health department;

(b) Be secretary of the district board of health and keep full minutes of the proceedings of the district board of health in a book provided for that purpose; and

(c) Fix the compensation of, by contract or otherwise, subject to the approval of the cabinet for human resources, all medical, technical, clerical, professional and other employes necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the cabinet for human resources.

(4) All employes of county health departments which join a district health department shall become employes of the district health department.

Section 16. KRS 212.890 is amended to read as follows:

County, city-county and district health departments may in addition to other powers specified in KRS 212.2145:

(1) Acquire title, by purchase or otherwise, with the approval of the cabinet, to real estate and such other property as may be necessary;

(2) Maintain in each county not less than one office and such others as are deemed necessary;

(3) Lease real and personal property;

(4) Procure liability insurance;

(5) *Provide for deferred compensation through the Kentucky deferred compensation system; and*

(6) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 17. KRS 212.900 is amended to read as follows:

The health officer of a district health department shall devote his time to the duties of his office and shall not engage in the private practice of medicine. He *shall* [~~may~~] also be secretary of the district board of health and keep full minutes of the proceedings of the board in a book provided for that purpose. He *shall* [~~may~~] also be the chief *executive* [~~administrative~~] officer of the district health department.

Section 18. KRS 18A.230 is amended to read as follows:

As used in KRS 18A.230 to 18A.275, unless the context requires otherwise:

(1) "Employe" means a person holding an office, position or employment in state government and agencies thereof and also includes persons in the public school system *and persons employed by county, city-county and district health department.*

(2) "Income" means earnings of a person while an employe of the state and agencies thereof or public school system *or health department.*

(3) "Asset" means any owned physical object or right having a monetary value.

(4) "Trust fund" means a fund consisting of assets received and held by a government unit or its designated custodian to be expended or invested in accordance with conditions of the trust.

(5) "Deferred compensation" means a method which allows employes to authorize income to be deducted from their current earning and set aside to be paid at a later date.

(6) "Board" means the board of trustees as established by KRS 18A.245.

SECTION 19. A NEW SECTION OF KRS CHAPTER 424 IS CREATED TO READ AS FOLLOWS:

In lieu of the procedure provided in KRS 424.220, each county, city-county or district health department shall, at the expiration of each fiscal year, publish in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district as the case may be, a summary of its revenue and expenditures by category as follows for the fiscal year just closed:

(1) Revenue categories:

(a) State;

(b) Federal;

(c) Local; and

(d) Fees.

(2) Expenditure categories:

(a) Salaries;

(b) Fringe benefits;

(c) Contractural expenditures;

(d) Travel;

(e) Space costs;

(f) Office administration;

(g) Administrative charges;

(h) Medical supplies;

(i) Automotive expenses;

(j) Other;

(k) Capital; and

(l) Indirect.

Section 20. KRS 211.365, Office space, is repealed.

The Committee Amendment No. 1 to HB 152 is as follows:

Amend printed copy of HB 152:

On page 1, line 15, by inserting the words "*or eligible*" after the words "*companies authorized*".

HB 294, AN ACT relating to dams and other water barriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.291 is amended to read as follows:

(1) The cabinet shall *enforce compliance with all applicable laws and regulations* [~~have primary responsibility for the safety to the public~~] of all dams, reservoirs, levees, embankments, or other water barriers owned by the Commonwealth[~~, its agencies, arms and subdivisions~~].

(2) The cabinet may take whatever action that it deems necessary to maintain, repair or remove dams, reservoirs, levees, embankments, or other water barriers owned, acquired or constructed by the Commonwealth[~~, its agencies, arms and subdivisions~~].

(3) Funds expended pursuant to subsection (1) or (2) of this section may not be expended for any aesthetic or functional purposes that are not related to the safety or integrity of the water barrier.

(4) Any person to whom the Commonwealth has transferred ownership of any dam, reservoir, levee, embankment or other water barrier shall maintain it in compliance with all applicable laws and regulations. The Commonwealth shall not expend funds to maintain, repair or remove any structure the ownership of which it has transferred after the effective date of this Act unless otherwise expressly provided by law or written agreement.

(5) The secretary of the cabinet shall review and approve or disapprove every proposed transfer of any water barrier owned by the Commonwealth. No transfer of any water barrier owned by the Commonwealth shall occur except upon approval of the secretary of the cabinet. The secretary shall ensure that every proposed transfer is consistent with the terms and provisions of this section. Nothing herein shall be construed, however, to prevent the transfer of a water barrier by the Commonwealth without first bringing it into compliance with existing laws and regulations.

HB 482, AN ACT relating to water withdrawal, diversion, and allocation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.200 is amended to read as follows:

(1) Notwithstanding the existence of any permits for the withdrawal, diversion, or transfer of public water, in times of drought, emergency, or other similar situations requiring a balancing of the rights and available water between water users, the *cabinet* [~~department~~], *upon declaration of a water emergency by the governor,* [~~with the approval of the authority~~] may temporarily allocate the available public water supply among water users and restrict the water withdrawal rights of permit holders, until such time as the condition is relieved and the best interests of the public are served.

(2) The department, with the approval of the *secretary* [~~authority~~], may issue a permit for the transfer or diversion of public water from one (1) stream or watershed area to another, where such transfer is consistent with the wise use of the public water of the commonwealth and is in the best interests of the public. *Prior to issuance of the permit the applicant shall publish a public notice soliciting written comments on the proposed permit in the newspaper or newspapers having greatest circulation in the area of the stream reach from which the withdrawal is taken. The applicant shall also send written notice to water withdrawal permit holders that might be affected by the permit. Thirty (30) days shall be allowed for public comments on the proposed permit.*

HB 674, AN ACT relating to dams and reservoirs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.110 is amended to read as follows:

(1) The conservation, development and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied industrial, municipal and recreational uses. It is recognized by the general assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS chapters 146, 149, 151, 262 and 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky.

(2) Furthermore, it is also the declared policy of the Commonwealth to conserve as working water resource developments those dams and reservoirs constructed in the Commonwealth prior to 1966, and the rules and administrative regulations to carry out the purposes of this chapter in other applicable water resources statutes shall reflect that policy.

Section 2. KRS 151.125 is amended to read as follows:

The secretary shall exercise the following authority and powers:

(1) To administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder;

(2) To conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;

(3) To adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and regulations for flood control and water resources which he deems necessary to accomplish the purposes of this chapter. Such rules and regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, *age of dam, size of reservoir,* and use of the reservoir and the lands lying in the floodplain downstream from the dam; *however,*

(a) Once a dam or reservoir has been constructed, the person who is the owner of the structure shall not be required by the cabinet to upgrade that structure to a higher classification, if adjoining or other downstream property owners choose to develop the floodplain downstream from that dam or reservoir; and

(b) The hydrologic criteria for the spillways and freeboard of dams built before 1966 shall be based on the five hundred (500) year design storm figures extrapolated from figures published in technical paper number forty (40), rainfall frequency atlas of the United States weather bureau, U.S. department of commerce;

(4) To adopt, without notice or hearing, rules and regulations with respect to procedural aspects of hearings,

the filing of reports and orders, the issuance of certificates of inspection, construction permits, water withdrawal permits, and other procedural matters;

(5) To issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and regulations issued thereunder;

(6) To examine and approve or disapprove applications for construction permits for the construction, enlargement, repair, or alteration of a dam;

(7) To establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of regulations as described in subsection (3) of this section;

(8) To make such investigations or inspections as necessary to determine the condition of a dam to insure compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;

(9) To order the suspension or revocation, after warning, of any certificate of inspection, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the certificate of inspection, construction permits, or water withdrawal permits;

(10) To order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by the provisions of this chapter.

(11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the department in carrying out the provisions of this chapter.

HJR 81, A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

WHEREAS, the General Assembly realizes the extreme importance of the state's water resource to the health and welfare of all Kentuckians; and

WHEREAS, the 1982 General Assembly created the Kentucky Water Management Task Force to assist the Natural Resources and Environmental Protection Cabinet "... in the development of a plan for the total management of the state's water resource"; and

WHEREAS, the task force created by the 1982 General Assembly worked hard to accomplish its mission and recommended legislation for introduction in the 1984 session; and

WHEREAS, the task force provides a vehicle for citizen participation in discussion of water issues across the state; and

WHEREAS, the need for continued discussion is important to the development of Kentucky's water resource; and

WHEREAS, the General Assembly is aware that the proper planning for the wisest utilization of the state's water resource is complex and time consuming and requires additional fact-findings;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission, intending to obtain information and determine the facts about the management of Kentucky's water resource, shall appoint members to serve on the reestablished Kentucky Water Management Task Force. The task force shall consist of the following members: two members of the House of Representatives, one member of the Senate; and one each from the Natural Resources and Environmental Protection Cabinet, Kentucky Geological Survey, Kentucky Department of Agriculture, Commerce Cabinet, Kentucky Association of Counties, Kentucky Municipal League, Kentucky Flood Control Advisory Commission, Kentucky Rural Water Association, Inc., Kentucky Conservation Committee, Society of Professional Engineers, and two industry representatives. The member from the Commerce Cabinet shall be experienced in economic development. The member from the Society of Professional Engineers shall be experienced in water-related projects. One of the three members of the General Assembly appointed to the task force shall be chairperson.

Section 2. The Kentucky Water Management Task Force shall obtain information from any source for the purpose of determining the facts in relation to the continued development and implementation of state government's plan for the management of the Commonwealth's water as provided in KRS Chapters 146, 151, and 224, with particular attention to water supply.

Section 3. That state agencies shall report information to the task force as requested.

Section 4. That each of the state agencies having a member on the task force shall assign a staff person to work with the task force to assure that the task force can accomplish its purpose. The role of the Legislative Research Commission staff shall be to coordinate staff assigned by the state agencies.

Section 5. That the members of the task force shall be reimbursed their expenses in attending meetings, and the task force shall report its findings, conclusions, recommendations, and legislative proposals to the Legislative Research Commission by September 1, 1987.

Section 6. That Legislative Research Commission staff services to be utilized in the conduct of this effort are estimated to cost $24,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the Commission.

The Committee on State Government reported HB 46, HB 134 with Committee Substitute attached thereto, HB 214, HB 215, HB 221, HB 473 with Committee Amendment attached thereto, HB 517, HB 546 with Committee Substitute attached thereto, HB 626, HB 672, HB 682, HB 691, SB 50, SB 52, and HCR 75 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 46, AN ACT relating to criminal justice data.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The justice cabinet shall collect, analyze, and publish data on crime which manifests a racial, ethnic, or religious prejudice or a crime against a person or property which manifests the same.

(2) In the event that the justice cabinet discovers a pattern to any series of such crimes, the cabinet shall forthwith disseminate the information to all applicable law enforcement agencies and to applicable county and commonwealth's attorneys and the attorney general.

(3) The justice cabinet shall prepare an annual report listing the types and nature of the crimes as set out in subsections (2) and (3) of this section together with a report of law enforcement activity related thereto. The report shall be sent to each law enforcement agency in the state, the governor, and the general assembly. The annual report shall be a public record.

HB 134, AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

Lotteries, [~~and~~] gift enterprises *and sweepstakes, except a lottery, gift enterprise or sweepstakes which the General Assembly may authorize an agency of the state to conduct and which utilizes the entire net proceeds exclusively for the purpose of supporting primary, secondary, or higher education, as the General Assembly may prescribe*, are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery *or sweepstakes* privileges or charters heretofore granted, *other than as set out in this section*, are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided in Sections 256 and 257 of the Constitution of Kentucky and in KRS 118.415.

The Committee Substitute to HB 134 is as follows:

HB 134, AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may authorize an agency of the state to conduct a lottery or sweepstakes which utilizes the proceeds, after deduction of operating and promotional expenses, thereof for the purposes of:

(a) Fifty percent (50%) of the proceeds for the support of primary, secondary, vocational, or higher education, in such manner as the General Assembly may prescribe;

(b) Until the period for the payment of benefits expires fifty percent (50%) of the proceeds for providing a one-time bonus to residents of Kentucky who served in the armed forces of the United States on active duty with the armed forces in Southeast Asia for any period between August 5, 1964 and August 28, 1973 in such manner and under such terms and conditions as the General Assembly may prescribe and thereafter;

(c) Twenty-five percent (25%) of the proceeds shall be divided among the counties utilizing a formula of the population of the county area, multiplied by the general tax effort factor of the county, multiplied by the relative income factor of the county bears to the sum of the products of these factors for all counties in the state as determined by the General Assembly; and

(d) Twenty-five percent (25%) of the proceeds shall be divided among the cities utilizing a formula of the population of the city area multiplied by the general tax effort factor of the county, multiplied by the relative income factor of the city bears to the sum of the products of these factors for all cities of the state as determined by the General Assembly.

(2) All other lotteries, gift enterprises, and sweepstakes are forbidden and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties [~~Lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked~~].

Section 2. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided in Sections 256 and 257 of the Constitution of Kentucky and in KRS 118.415.

HB 214, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 174.020 is amended to read as follows:

(1) The transportation cabinet in addition to the departments set forth in KRS 174.015 shall consist of the following organizational units:

(a) Office of the secretary of transportation comprised of the secretary of transportation, chief deputy secretary (who shall also serve as commissioner of the department of highways), *and* a deputy secretary for legal affairs[~~, and a riverport and river development coordinator appointed by the secretary pursuant to KRS 12.050~~];

(b) Railroad commission, attached to the office of the secretary for administrative purposes;

(c) Office of public relations, headed by an executive director who shall serve as press secretary and shall be responsible for public relations and information;

(d) Office of general counsel headed by an executive director, which shall provide legal services for the cabinet;

(e) Office of personnel management, headed by an executive director who shall be responsible for the implementation of programs and practices for the recruitment, training, utilization and management of cabinet personnel;

(f) Office of minority affairs, headed by an executive director who shall be responsible for the development and implementation of programs and procedures for assisting minorities in employment and contractual relations with the cabinet;

(g) Office of aeronautics, headed by an executive director who shall be responsible for the administration of the Commonwealth's airport planning and development programs; and

(h) Kentucky airport zoning commission established by KRS 183.861, which shall be attached to the office of aeronautics.

(2) The executive directors of the offices of public relations, general counsel, personnel management, minority affairs and aeronautics shall be appointed by the secretary with the approval of the governor pursuant to KRS 12.050.

Section 2. The General Assembly confirms the reorganization of the Transportation Cabinet and the Commerce Cabinet by Executive Order 85-834, issued on November 1, 1985 to the extent it is not otherwise confirmed by this Act and specifically confirms the transfer of the river port and river development coordinator from the Transportation Cabinet to the Kentucky Port and River Development Commission in the Commerce Cabinet.

HB 215, AN ACT relating to reorganization of the Justice Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Order 85-839, reorganizing the Justice Cabinet as follows:

(1) Abolish the Office of Justice administration, including its division of administrative services, grants management division and medical examiners division.

(2) Establish within the Office of the Secretary of the Justice Cabinet the division of administrative services, the grants management division and the medical examiners branch.

HB 221, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.030 is amended to read as follows:

The cabinet for human resources shall consist of the following major organizational units which are hereby created:

(1) Office of the secretary.

(2) The office for policy and budget. The office for policy and budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The office for policy and budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050.

(3) The office of the counsel. The office of the counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The office of the counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The office of the counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The attorney general, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105.

(4) The office of the ombudsman. The office of the ombudsman shall provide a review of citizen complaints on services of the cabinet for human resources when such complaints cannot be resolved through normal administrative remedies. The office of the ombudsman shall be headed by an ombudsman who shall be appointed by the governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary.

(5) The office of administrative services. The office of administrative services shall be responsible for providing administrative support services within the cabinet for human resources. All fiscal, facility and information management functions of the cabinet shall be vested in the office of administrative services. The office of administrative services shall be headed by an executive director who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(6) The department for social insurance. The department for social insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The department for social insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The department for social insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the department for social insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(7) The department for health services. The department for health services shall develop and operate all programs of the cabinet that provide health [~~and mental health~~] services and all programs for the prevention, detection, care, and treatment of physical [~~and mental~~] disability, illness, and disease. The department for health services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the department for health services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(8) *The department for mental health and mental retardation services. The department for mental health and mental retardation services shall provide services for all programs for the prevention, detection and treatment of mental disability, illness and disease and administer all programs for the assistance of community treatment and prevention of such disability, illness and disease. The department for mental health and mental retardation services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary for human resources with the approval of the governor in accordance with KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary for human resources and shall only fulfill such responsibilities as delegated by the secretary.*

(9) The department for social services. The department for social services shall develop and operate all social service programs of the cabinet. The department for social services shall be headed by a commissioner for

social services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the department for social services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(10)[~~(9)~~] The department for employment services. The department for employment services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The department for employment services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the department for employment services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary.

(11)[~~(10)~~] The office of the inspector general. The office of the inspector general shall be responsible for: (a) the conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; (b) such licensing and regulatory functions as the secretary may delegate; and (c) the notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority. The office of the inspector general shall be headed by an inspector general who shall be appointed by the secretary with the approval of the governor. The inspector general shall be directly responsible to the secretary.

Section 2. The General Assembly confirms Executive Order 84-599 relating to establishment of separate departments for health sevices and mental health and mental retardation services to the extent that it is not otherwise confirmed by this Act.

HB 473, AN ACT relating to economic development bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.060 is amended to read as follows:

(1) The department shall assemble and keep in the offices of the department such information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities and such other information as may be useful in executing the provisions of KRS 152.010 to 152.080. Such information shall be made available to any enterprise which, in the discretion of the commissioner, is legitimate and which contemplates location or operation within the Commonwealth. Such information shall, in the discretion of the commissioner, be made available to any governmental or private agency interested in securing the location or operation of any such legitimate enterprise within the Commonwealth.

(2) The department shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials and such other information as may be useful in securing the location of such enterprise in the Commonwealth.

(3) The department shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The department shall carry out programs relating to industrial and commercial development, research and planning, community and industrial services, marketing development, small and minority business enterprise, international trade and reverse investment, and other programs designated by the governor.

(4) For all economic development bond projects authorized by 1980 Acts Chapter 109 and submitted for approval by the state property and buildings commission after August 1, 1986, the department shall require that all economic development bond funds awarded be recognized as loans and that provision for the full

repayment of all principal, interest, and issuing expense incurred by the state be included in any loan agreement negotiated with the Commonwealth. The department shall forward a copy of the loan agreement and a detailed loan repayment schedule to the property and buildings commission and to the legislative research commission or the general assembly at least thirty (30) days prior to approval of the bonds by the property and buildings commission. The proceeds from the debt repayment shall be deposited in the general fund. The department shall report to the above mentioned commissions by June 30 of each year on the repayment status of these and all previously issued economic development bond projects.

The Committee Amendment No. 1 to HB 473 is as follows:

Amend printed copy of HB 473:

On page 2, line 14, by deleting "*August 1*" and inserting in lieu thereof "*December 31*".

HB 517, AN ACT relating to railroad policemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.280 is amended to read as follows:

(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office [~~and the oath required by Section 228 of the constitution~~]. The bond shall be executed in the county in which the policeman resides, or in which the railroad has its registered process agent, if any, within the state, or in which the policeman performs any duties as a railroad policeman, and the bond shall be approved, and the oath administered, by the county judge/executive. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.

(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

HB 546, AN ACT relating to commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each commonwealth's attorney shall be paid out of the state treasury.

(2) The compensation of the staff of each commonwealth's attorney shall be paid out of the state treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, *or a city of the third class and a population of seventy-five thousand (75,000) or more,* the commonwealth's attorney shall not engage in the private practice of law. *The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration.* All other commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars

($500), which sum is declared to be the equivalent of the minimum sum that each commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the state treasury.

(7) In order to equate the compensation of commonwealth's attorneys with the purchasing power of the dollar, the finance and administration cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The finance and administration cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the finance and administration cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the finance and administration cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision in KRS Chapter 61 to the contrary, each full-time commonwealth's attorney in office on January 1, 1987 or thereafter who is a member of the Kentucky employes retirement system and has served eighteen (18) years or more as an elective officer, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the court of justice with an equivalent service entrance date, but in no event less than that specified in Acts 1980, ch. 407, section 15, subsection (1), of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 65.510(13) of the sixty (60) months of service immediately preceding retirement.

Section 3. This Act shall take effect January 1, 1988. Provided, however, that Section 1 of this Act shall not apply to any commonwealth's attorney in office on the date this Act becomes law unless such commonealth's attorney shall notify the attorney general in writing prior to December 15, 1987, of his intention to serve as a full-time commonwealth's attorney during his term of office commencing on January 1, 1988.

The Committee Substitute to HB 546 is as follows:

HB 546, AN ACT relating to commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each commonwealth's attorney shall be paid out of the state treasury.

(2) The compensation of the staff of each commonwealth's attorney shall be paid out of the state treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, *or a city of the third class and a population of seventy-five thousand (75,000) or more,* the commonwealth's attorney shall not engage in the private practice of law. *The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration.* All other commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the state treasury.

(7) In order to equate the compensation of commonwealth's attorneys with the purchasing power of the dollar, the finance and administration cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The finance and administration cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the finance and administration cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the finance and administration cabinet.

Section 2. This Act shall take effect January 1, 1988. Provided, however, that Section 1 of this Act shall not apply to any commonwealth's attorney in office on the date this Act becomes law unless such commonealth's attorney shall notify the attorney general in writing prior to December 15, 1987, of his intention to serve as a full-time commonwealth's attorney during his term of office commencing on January 1, 1988.

HB 626, AN ACT relating to veterans' affairs and making an appropriation therefor.

WHEREAS, in 1848 the Kentucky General Assembly appropriated the sum of $15,000 over a three year period for the purpose of erecting a military monument on property owned by the state in the Frankfort Cemetery; and

WHEREAS, the 150 ton memorial is 135 years old, 65 feet tall with a granite base, a stone foundation, and columns of italian marble; and

WHEREAS, if the existing monument were to be built today and constructed from the same materials, it would cost an estimated one million dollars; and

WHEREAS, the 1984-85 Special Subcommittee on Veterans Affairs of the Kentucky General Assembly has recommended that a war memorial be built to preserve from oblivion the names of those Kentuckians who have fallen in defense of their country; and

WHEREAS, it is prudent and frugal to repair and rededicate the war memorial in the Frankfort Cemetery which historically has rendered homage to the memory of Kentucky's slain heroes;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That it is the intent of the General Assembly to disassemble, repair, reset and rededicate the existing war memorial to Kentucky veterans, located in the Frankfort Cemetery in Frankfort, Kentucky.

Section 2. That to carry out the purposes of this Act, there is appropriated to the Frankfort Cemetery out of the general fund in the state treasury the sum of two hundred ten thousand dollars ($210,000) for the 1986-87 fiscal year.

Section 3. That contributions, grants and gifts from any source, both public and private, may be used by the Frankfort Cemetery for costs associated with disassembling, repairing, resetting and maintaining the state war memorial for veterans.

HB 672, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided by the provisions of this Act, the commissioner may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:

(a) It is found that he does not meet any one (1) of the preliminary requirements established for the examination for the class of position;

(b) He is unable to perform the duties of the class;

(c) He has made a false statement of material fact in his application;

(d) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(e) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(f) He has failed to submit his application correctly or within the prescribed time limits;

(g) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(j) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(k) He has otherwise wilfully violated the provisions of this Act.

(2) An eligible may be removed from a register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(3) When an eligible notifies the department in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate register without further notification to the person.

(4) When the department is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, an employe shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employe may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal except as provided by Section 15 of this Act. If the employe is separated from his position, he shall be notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. The employe shall be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employe prior to the end of the initial probationary period that he is separated, the employe shall be deemed to have served satisfactorily and shall acquire tenure in the classified service.

(2) An employe who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted tenure and may not be demoted, disciplined, dismissed, or otherwise penalized except as provided by the provisions of this Act.

(3) An employe ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise as provided in Section 15 of this Act.

(4) An employe with tenure who has been promoted shall serve a promotional probationary period of six (6) months. During this period, he shall retain the rights and privileges granted by the provisions of this Act to tenured employes.

(5) An employe with tenure may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employe who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. Such an employe shall serve a promotional probationary period. He shall be an employe with tenure and shall have all rights and privileges granted employes with tenure under the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful to coerce employes who may be or are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county and job classification, provisional, temporary, emergency, federally funded time-limited, and probationary employes shall be laid off before permanent full-time or permanent part-time employes with tenure. For purposes of layoff, "probationary employe" does not include an employe with tenure serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employes subject to layoff in a layoff plan submitted to the commissioner have the same qualifications, the employe with the lesser seniority shall be laid off first.

(4) An employe who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years laid-off employes shall be hired before any applicant or eligible except another laid-off employe with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employe shall not be removed from any register unless:

(a) He notifies the department in writing that he no longer desires consideration for a position on such register;

(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) He is unqualified for appointment;

(e) He is unable to perform the duties of the class;

(f) He has made a false statement of a material fact in his application;

(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(j) He cannot be located by postal authorities at the last address provided by him; or

(k) He has otherwise wilfully violated the provisions of this Act.

(7) When the department is notified by an appointing authority that a laid-off employe has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employe is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) A layoff of a state employe with tenure in the executive branch due to the abolition of a position, lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of an employe that he is subject to layoff and prior to the layoff of an employe, the appointing authority shall submit a layoff plan to the commissioner and the secretary of the finance and administration cabinet for their approval. Such plan shall contain the name of the employe and the reasons, in detail, for such layoff. Upon approval of the plan by the commissioner and the secretary, the employe shall be notified that he is subject to layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of this Act for the layoff of employes; and

(c) The rights granted employes subject to layoff and to laid off employes.

(3) (a) An employe subject to layoff shall be transferred to a vacant position of the same pay grade, level of duties and responsibilities for which he is qualified within the cabinet. Such position shall be located in the same county as the position from which the employe is subject to lay off;

(b) If such a vacancy does not exist, the employe shall be transferred to a vacant position within the cabinet for which he is qualified. Such position shall be located in the same county as the position from which the employe is subject to lay off;

(c) If such a position is not available, the employe shall be notified of all vacant positions within the cabinet for which he is qualified to take an examination. The employe shall have the right to take an examination for any vacant position within the cabinet for which he is qualified. If he passes the examination he shall be appointed to that position before any applicant or eligible on a register, except another laid off employe with greater seniority already on such register.

(4) (a) If no position is available to an employe subject to layoff under the procedure established by subsection (3) of this section, the appointing authority shall notify the employe and the department;

(b) The department shall coordinate efforts to transfer an employe subject to layoff to another agency. It shall have the authority to transfer an employe subject to layoff under this section, with or without the approval of the appointing authority of the agency to which the employe is to be transferred.

(5) The department shall transfer the employe:

(a) To a vacant position of the same pay grade, level of duties and responsibilities in any agency;

(b) If such a position is not available, the employe shall be transferred to a vacant position of the same job class in any agency for which he is qualified;

(c) If such a position is not available, the employe shall be notified of all vacant positions for which he is qualified to take an examination. The employe shall have the right to take an examination for any vacant position in any agency for which he is qualified. If he passes the examination he shall be appointed to that position before any applicant or eligible on a register, except another laid off employe with greater seniority already on such register.

(6) An employe transferred under this section shall be transferred to a position in the same county in which he was employed at the time he was subject to layoff if such a position is available.

(7) If no position is available, the employe shall have the right to take an examination for any position for which he is qualified. If he passes the examination he shall be hired before any applicant or eligible on a register, except a laid-off employe with greater seniority already on such register.

(8) If no position is available to an employe subject to layoff under the procedure established by subsections (3) and (4) of this section, the employe shall be notified in writing that he is to be laid-off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Prior to a layoff of state employes in the executive branch, required by a projected or actual reduction in tax receipts contemplated under the provisions of subsections (1) and (5) of Section 17 of this Act, each cabinet shall prepare a layoff plan that complies with the provisions of this Act.

(2) Each layoff plan shall provide that a layoff of state employes shall occur only after all other cost saving measures are taken and have failed to alleviate the projected or actual deficit. These measures shall be specified in the plan, in detail, and shall include but not be limited to:

(a) A hiring freeze of all types of appointments;

(b) A reduction or delay of expenditures that would not prevent the provision of services required by law;

(c) Consolidation of offices and job duties that would not prevent the provision of services required by law;

(d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48;

(e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which layoffs are to occur by transfer of existing employes of the appointing authority;

(f) The filling of vacancies and promotions from within the cabinet; and

(g) Transfers of employes within the cabinet as provided by Section 4(3) and (4) of this Act.

(3) Each cabinet shall submit:

(a) Its layoff plan; and

(b) A list of employes who would remain subject to layoff after the implementation of cost saving measures;

to the commissioner and to the secretary of the finance and administration cabinet for review. Upon approval by the secretary, the layoff plans shall be submitted to the governor for approval.

(4) Upon approval of the plan by the governor, the commissioner shall attempt to transfer employes as provided by Section 4(5) of this Act. Employes who cannot be transferred as provided by Section 4(3) to (5) of this Act may be laid-off.

(5) If no position is available to an employe subject to layoff under the procedures established by this section, the employe shall be notified in writing that he is to be laid-off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employes.

(6) When the hiring freeze is ended, laid-off employes shall be hired before any applicant or eligible except laid-off employes already on such registers.

Section 6. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing officer" means the *agency head or any person whom he is authorized by law to designate to act on behalf of the agency with respect to employe appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner* [~~officer or employe or group of officers or employes authorized by law to make appointments~~];

(2) "Base salary or wages," means the compensation to which an employe is entitled under the salary schedules adopted pursuant to the provisions of this Act. Base salary or wages shall be adjusted as provided under the provisions of Sections 21 and 22 of this Act;

(3) "Board" means the personnel board created by KRS 18A.045;

(4)[~~(3)~~] "Career employe" shall mean a state employe with *sixteen (16)* [~~twenty (20)~~] or more years of permanent full-time state service, or the part-time employment equivalent of at least *sixteen (16)* [~~twenty (20)~~] years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof.

(5)[~~(4)~~] "Certification" means the referral of the name of one (1) or more qualified prospective employes by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6)[~~(5)~~] "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7)[~~(6)~~] "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(8)[~~(7)~~] "Commissioner" means the commissioner of the department of personnel as provided for in KRS 18A.015;

(9)[~~(8)~~] "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range *or* [~~and~~] less discretion or responsibility;

(10)[~~(9)~~] "Department" means the department of personnel provided for in KRS 18A.015 unless the context indicates otherwise;

(11)[~~(10)~~] "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.005 to 18A.200 and who has qualified to be placed on a register;

(12)[~~(11)~~] “Emergency employe” means an employe appointed without regard to the examination requirements of KRS 18A.005 to 18A.200 to any position by reason of a governmental emergency. *An emergency*[~~, whose~~] appointment *shall* [~~is~~] not [~~to~~] exceed thirty (30) working days in duration and is nonrenewable;

(13)[~~(12)~~] “Employe” means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(14) “Federally funded time-limited employe” means an employe appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in this chapter;

(15) “Federally funded time-limited position” means a position created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

[~~(13) “Position” means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;~~]

(16)[~~(14)~~] “*Initial* probation” means the period of service following *initial* appointment to any position under KRS 18A.005 to 18A.200 which requires special observation and evaluation of an employe’s work and which must be passed successfully before *tenure* [~~status~~] may be conferred as provided in KRS 18A.110 *and by the provisions of this Act. “Initial probation” does not include a probationary period served by a laid-off employe who accepts a bona fide written offer of appointment* [~~An employe serving the probationary period is known as a “probationary employe”~~];

(17) “Penalization” shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action, that diminishes the level, rank, discretion or responsibility of an employe without proper cause including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employes;

(18) “Position” means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(19)[~~(15)~~] “Promotion” means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(20) “Promotional probation” means the six (6) month period of service following the promotion of an employe with tenure which must be successfully completed in order for the employe to retain the position to which he has been promoted;

(21)[~~(16)~~] “Provisional employe” means any employe appointed on a temporary or interim basis to a permanent position under KRS 18A.005 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110;

(22) “Reallocation” means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employe has been and shall continue to perform;

(23) “Reclassification” shall mean the change in the classification of an employe when a material and permanent change in the duties or responsibilities of that employe occurs;

(24) “Reemployment” shall mean the rehiring of an employe with tenure who has been laid off;

(25)[~~(17)~~] “Reemployment *register* [~~list~~]” means the separate list of names of persons *who have been separated from state service* [~~reduced in force~~] by reason of *lay off* [~~lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have~~

~~requested the opportunity for further consideration of state employment~~]. Reemployment *registers shall be* [~~lists are~~] used as provided *by the provisions of this Act* [~~in KRS 18A.110 and subject to KRS 18A.130 and 18A.135~~];

(26)[~~(18)~~] "Register" means any official list of eligibles for a particular class, *and, except as provided in this Act,* placed in rank order according to the examination *scores* [~~records~~], maintained for use in making original appointments or promotions to positions in the classified service;

(27) "Reinstatement" shall mean the restoration of an employe who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in his former class or to a position of like status and pay;

(28) "Seasonal employe" means an employe appointed to a seasonal position;

(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months duration;

(30) "Seniority" means the total number of months of state service;

(31) "Temporary employe" means an employe appointed to a temporary position;

(32) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;

(33)[~~(19)~~] "*Tenure* [~~Status~~]" means the acquisition of *the* [~~tenure with all~~] rights and privileges *granted by the provisions of this Act* [~~appertaining thereunto~~] after satisfactory completion of the *initial* probationary period by an employe in the classified service;

[~~(20) A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season or seasons of the year, but may not exceed eleven (11) months duration, and may recur regularly from year to year; a "seasonal employe" is one appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;~~

~~(21) A "federally funded time-limited position" is one created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in KRS 18A.005 to 18A.200;~~]

(34)[~~(22)~~] "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges, [~~and~~] the same level of responsibility within the classified service *and the same salary received immediately prior to transfer*;

(35)[~~(23)~~] A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between *December 7, 1941* [~~April 28, 1952~~], and July 1, 1955 or between August 6, 1964 and May 7, 1975.

Section 7. KRS 18A.020 is amended to read as follows:

(1) The records of the department shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the department and the appointing authority for each employe. The file maintained by the department shall be the official personnel file for the employe. Upon transfer, the personnel file maintained by the appointing authority from which the employe transfers shall be forwarded to the new appointing authority.

(b) Each file shall include, but not be limited to, for each employe, his name, address, title of positions held,

classification, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, awards, and preliminary and other supporting documentation for each action. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) Whenever an employe is reprimanded for misconduct, other infraction, or failure to perform his duties in a proper or adequate manner, the supervising employe taking such action shall document such action in detail, and shall provide the employe with a copy of such documentation. The supervising employe shall inform the employe that he has the right to prepare a written response to the action taken after he has reviewed the written documentation prepared by the supervising employe. Such response shall be attached to the documentation prepared by the supervising employe. The supervising employe shall place a copy of the documentation and response provided for herein in the employe's personnel file and shall transmit a copy to the department to be placed in the official personnel file of the employe. The supervising employe shall notify the employe that copies of the documentation and the response provided for herein have been placed in his personnel files.

(3) Upon written request, an employe shall have the right to examine his personnel file. An employe may comment in writing on any item in his file. Such comments shall be made a part of his file and shall be attached to the specific record or document to which they pertain.

(4) Upon written request a state employe, an applicant for employment, and an eligible on a register shall have the right to inspect and to copy any record and preliminary documentation and other supporting documentation that relates to him except that an applicant, an eligible or a state employe shall not have the right to inspect or to copy any examination materials.

(5) No public agency, as defined by KRS 61.870, and no officer or employe shall deny, abridge or impede the exercise of the rights granted in any manner by this section and by Section 18 of this Act.

Section 8. KRS 18A.025 is amended to read as follows:

(1) The governor shall appoint the commissioner of personnel as provided in KRS 18A.015, who shall be considered an employe of the state. He shall be a graduate of an accredited college or university and have at least five (5) years experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) *For purposes of dissemination of information and coordination of activities only,* the department of personnel shall be attached to the office of the secretary of the governor's executive cabinet.[~~, and~~] The commissioner shall have such duties and responsibilities as *provided by this Act* [~~assigned by the secretary of the executive cabinet, and shall be responsible to and report to the secretary~~].

(3) There is established within the department of personnel the following divisions, each of which shall be headed by a director appointed by the commissioner [~~subject to the prior approval of the governor,~~] pursuant to KRS 12.050;

(a) The division of classification and compensation, which shall be responsible for the maintenance of plans of classification and compensation for the state service; for the review and evaluation of these plans; for the coordination of performance appraisal programs for state employes; for design and administration of employe benefits; for coordination of the workers' compensation program; and for the coordination of programs providing services to employes;

(b) The division of applicant counseling and examinations, which shall be responsible for the operation of a centralized applicant and employe counseling program, operation of an examination program for state employment, preparation of registers of candidates for state employment, coordination of equal employment opportunity and affirmative action, and outreach programs such as the administrative intern programs;

(c) The division of payroll administration, which shall be responsible for the maintenance of central personnel files for state employes, processing of personnel documents and personnel and position actions, operating and maintaining a uniform personnel payroll system, *implementation of lay off plans* and certification of payrolls of various state agencies.

(4) The department shall include such principal assistants appointed by the commissioner, pursuant to KRS 12.050, as may be necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of this chapter, such personnel as necessary to execute the functions and duties of the department.

Section 9. KRS 18A.030 is amended to read as follows:

(1) The commissioner shall be the executive and administrative head of the department and shall supervise and control all examinations and work of the department. He shall *advise* [~~act as an adviser to~~] the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the commissioner shall appoint and supervise such staff as may be needed in the department to carry out the purposes of KRS 18A.005 to 18A.200 except employes of the board *who shall be appointed* as provided in KRS 18A.090.

(2) Subject to the provisions of this Act and KRS Chapter 13A, it shall be the duty of the commissioner, with the aid of his staff to:

(a)[~~(1)~~] Attend all meetings of the board;

(b)[~~(2)~~] *Promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants* [~~Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of KRS 18A.005 to 18A.200. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment~~];

(c)[~~(3)~~] Establish general procedures for personnel recruitment, for certification, *and* for improving the efficiency of employed personnel[~~, and for the separation of employes deemed unsatisfactory or excessive by agency or department heads subject to the provisions of KRS 18A.005 to 18A.200~~];

(d)[~~(4)~~] Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e)[~~(5)~~] Prepare and maintain a record of all employes, showing for each employe his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;

(f)[~~(6)~~] Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the *administrative regulations* [~~rules~~] adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g)[~~(7)~~] Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h)[~~(8)~~] Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and *administrative* [~~rules and~~] regulations prescribed thereunder;

(i)[~~(9)~~] Prepare, in cooperation with appointing authorities and others, programs for [~~appraising employe work performance and collaborate with the several departments of the Commonwealth in the development of programs for~~] employe training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j)[~~(10)~~] Provide personnel services to unclassified employes in agreement with the agencies involved not otherwise provided for herein;

(k)[~~(11)~~] Present, in accordance with the provisions of KRS *Chapter 48* [~~48.050~~], budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l)[~~(12)~~] Make a report and submit the same to the board, *the legislative research commission* and [~~to~~] the governor not later than October first of each year;

(m)[~~(13)~~] Discharge such other duties as are imposed upon him by KRS 18A.005 to 18A.200[~~, or by the board~~].

(n) The commissioner on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration; and

(o)[~~(14)~~] Keep records relative to employe turnover and report to the board, the governor and the legislative research commission quarterly. The report shall reflect employe turnover rates by cabinet, department, bureau, division and section. If any cabinet, department, bureau, division or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the governor and the legislative research commission.

Section 10. KRS 18A.050 is amended to read as follows:

(1) Any person serving on the board on July 15, 1982 shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.

(2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the governor shall appoint two (2) members from a list of four (4) names submitted by the legislative research commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.

(4) These five (5) appointments to the board shall be subject to confirmation by the senate. If the senate is not in session, these five (5) appointments shall be subject to review by the interim joint committee on state government which shall hold a public hearing and shall transmit its recommendations to the senate.

(5) The initial election of classified employes to the board shall be held as provided in KRS 18A.055. The two (2) classified employes initially elected to the board shall serve until July 1, 1986. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060. *Effective for the election to be held in 1986 and all subsequent elections, a classified employe elected to the board shall not be eligible for reelection to the board for the four (4) year term succeeding the expiration of the term for which he shall have been elected. He shall also be ineligible to be appointed to fill a vacancy that occurs during the four (4) year term succeeding the expiration of the four (4) year term for which he shall have been elected. The classified employes elected to the board at the election held in 1982 shall be eligible for the 1986 election.*

(6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.

(7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

SECTION 11. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The department shall provide written notification of the date of the election to all classified employes on or before May 1.

(b) Upon receipt of the notification provided for by subsection (1)(a) of this section, an employe wishing to serve on the board shall notify the department, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, social security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the department shall certify a payroll that is current on such day and that contains the name, social security number and home address of every classified employe.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the department shall mail to each classified employe whose name appeared on the payroll certified by the department at his home address:

(a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

(b) Instructions for voting, including the instruction that the employe shall write his name, address and social security number in the upper left corner of the reply envelope;

(c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

(d) An envelope for returning the ballot. Prior to mailing the envelope to a state employe, it shall be addressed by the department to the impartial third party selected by the department to receive, validate and tabulate the ballots at a post office box rented by the department for the election. The upper left corner of the envelope shall contain a sufficient number of blank lines and spaces to permit an employe to write his name, address and social security number in such corner.

(4) Upon receipt of his ballot a classified employe wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than two (2) candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote; and

(c) Print his name, address and social security number in the upper left corner of the reply envelope provided by the department.

(5) The department shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by subsections (5) and (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and social security numbers of eleigible voters, with the names of the eligible voters in numerical sequence as determined by their social security numbers. The names and social security numbers listed on such list shall correspond to those appearing on the payroll certified by the department under subsection (2) of this section.

(6) The impartial third party selected by the department shall collect all ballots, unopened, from the post office box. It shall:

(a) 1. Verify the name and social security number on each envelope by comparing them to the computer generated list of names and social security numbers of eligible voters provided by the department; and

2. Set aside, unopened, any envelope containing a name or a social security number on the envelope that does not match a name and the social security number appearing next to the name on the computer generated list;

(b) Examine the postmark on each envelope;

(c) Set aside, unopened, any envelope postmarked with a date subsequent to the deadline provided for by this section;

(d) Remove the ballot from each envelope;

(e) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (a)2. and (c) of this subsection shall not be counted;

(f) Compare the total tabulated vote with the total number of eligible employes appearing on the computer generated list provided by the department;

(g) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the department; and

(h) Certify to the department:

1. That the tabulation does not include two (2) or more ballots with the same social security number;

2. The total number of ballots received;

3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;

4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes and other election materials provided for by this section shall be public record and open to inspection.

(8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the department no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employes shall not use state materials or equipment for any purpose related to the election of classified employes to the board, nor shall any activity related to the election of a classified employe to the board be conducted during working hours.

Section 12. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this Act and KRS Chapter 13A, it shall be the duty of the board to:

(1) Adopt comprehensive rules consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants *for the purpose of carrying out the provisions of KRS Chapter 18A*;

(2) [~~Present to the governor, through the secretary of the department of finance, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;~~

~~(3)~~] Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the *administrative* [~~rules and~~] regulations *promulgated* [~~made~~] pursuant *to the provisions of this Act and KRS Chapter 13A* [~~thereto~~]; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(3)[~~(4)~~] Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employes who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from officers or employes serving under the personnel *systems* [~~system~~] created by *this chapter* [~~KRS 18A.005 to 18A.200~~], as [~~hereinafter~~] provided *by this Act* [~~, subject to the procedural rules which the board may adopt pursuant to the provisions of this section~~];

(4)[~~(5)~~] *In cooperation with the commissioner,* promote public understanding of merit principles in government service;

(5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;

(6) Make annual reports to the governor, [~~and~~] the legislative research commission, *and the commissioner,* and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner with respect to the administration of the personnel system created by *this chapter* [~~KRS 18A.005 to 18A.200~~];

(8) Consider and act on such matters as may be referred to the board by the commissioner; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner in fostering the interest of institutions of learning and of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

SECTION 13. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Appeals by state employes;

(b) Demotion;

(c) Dismissal;

(d) Fines, suspensions, and other disciplinary measures;

(e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section;

(f) Promotion;

(g) Reinstatement;

(h) Transfer; and

(i) Employe grievances and complaints;

The board shall not promulgate administrative regulations relating to evaluation of state employes.

(2) (a) Such administrative regulations shall comply with the provisions of this Act and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employes and administrative bodies by the provisions of this Act.

(c) No administrative body other than the personnel board shall promulgate administrative regulations governing the subject matters specified in this section.

(3) Prior to filing an administrative regulation with the legislative research commission, the board shall submit such administrative regulation to the commissioner for review.

(a) The commissioner shall review the administrative regulation proposed by the board not less than twenty (20) days after its submission to him.

(b) Not less than five (5) days after his review, the commissioner shall submit his recommendations in writing to the board.

(c) The board shall review the recommendations of the commissioner and may revise the proposed administrative regulation as it deems necessary.

(d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the legislative research commission pursuant to the provisions of KRS Chapter 13A.

(4) Such administrative regulations shall provide:

(a) For the procedures to be utilized by the board in the conduct of hearings by the board;

(b) For reduction in rank or grade as provided by this Act;

(c) For discharge, as provided by this Act;

(d) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and, in accordance with the provisions of this Act for the manner of notification of the employe of the discipline and his right of appeal;

(e) No probationary period may exceed twelve (12) months. The commissioner may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. Such recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of such administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:

1. The job classification for which an initial probationary period in excess of six (6) months is required; and

2. The specific number of months constituting the initial probationary period, not to exceed twelve (12) months, for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months. Upon approval by the board of the proposed administrative regulation provided for herein, the board shall file such regulation with the legislative research commission as provided by KRS Chapter 13A;

(f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Except as provided by this Act, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(g) For reemployment of laid off employes in accordance with the provisions of this Act;

(h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of this Act;

(i) For establishment of a plan for resolving employe grievances and complaints. Such plan shall not restrict rights granted employes by the provisions of this Act;

(j) For promotion of career employes to positions in the unclassified service without loss of tenure to the individual employes so promoted as provided by this Act; and

(k) For such other administrative regulations not inconsistent with this Act and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 14. KRS 18A.090 is amended to read as follows:

(1) As provided by the budget enacted by the general assembly and other laws applicable to state personnel, the board shall appoint an executive director who shall be the chief administrative officer of the board and serve as secretary to the board. He shall have proven administrative and managerial experience and familiarity with equal employment opportunity laws and regulations. The board shall appoint other employes it deems necessary in accordance with the provisions of this chapter. The salaries of the executive director and other employes of the board shall be determined by order of the board. The executive director of the board shall prepare the budget request for approval by the board in the form and manner required by applicable law. For the purposes of KRS *Chapter 48* [~~45.070~~] the board shall be considered a budget unit.

(2) The board shall appoint a general counsel pursuant to KRS 12.210 to provide legal services for the board. Upon request of the board, the attorney general may designate the general counsel as an assistant attorney general. The general counsel provided for by this subsection shall not be employed by personal service contract and shall be a full-time employe of the board. The general counsel shall serve as a hearing officer for the board [~~The attorney general shall be an advisory member of the board~~].

Section 15. KRS 18A.095 is amended to read as follows:

(1) A classified employe with tenure shall not be dismissed, demoted, suspended or otherwise penalized except for cause.

(2) Prior to dismissal, a classified employe with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved.

(b) That the employe has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(3) The department shall prescribe and distribute a form to be completed and forwarded by an employe who wishes to appear before the head of the cabinet or his deputy to each appointing authority. Such form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

1. The right granted an employe under the provisions of this Act relating to pretermination hearings; and

2. The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives such notice, the employe may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(5) Such appearance shall be scheduled six (6) working days after receipt of an employe's request to appear before the head of the cabinet or his deputy, excluding the day his request is received.

(6) No later than five (5) working days after the employe appears before the head of the cabinet or his deputy, excluding the day of the appearance, the cabinet head or his deputy shall:

(a) Determine whether to dismiss the employe or to alter, modify or rescind the intent to dismiss; and

(b) Notify the employe in writing of the decision.

(7) If the cabinet head or his deputy determines that the employe shall be dismissed or otherwise penalized, the employe shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for such action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved;

(c) That he may appeal such dismissal or other penalization to the board within thirty (30) days after receipt of this notification, excluding the day he receives notice.

(8) A classified employe with tenure who is demoted, suspended or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension or other penalization;

(b) The effective date of the demotion, suspension or other penalization;

(c) The specific reason for such action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension or other penalization is based;

3. The date, time and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within thirty (30) days excluding the day that he received notification.

(9) Any [~~classified employe who is dismissed, demoted, suspended, or otherwise penalized after completing his probationary period of service or any~~] unclassified employe who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(10) (a) An employe whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the commissioner within ten (10) working days of receipt of the notice, excluding the day he receives notification.

(b) He shall be provided with a form prescribed by the commissioner on which to request reconsideration; and

(c) The employe shall file a written request for reconsideration of the reallocation of his position with the commissioner in such manner and form as the commissioner may prescribe, and shall be given a reasonable opportunity to be heard thereon by the commissioner. The commissioner shall make a determination within sixty (60) days after the request has been filed by an employe. After reconsideration of the request by the commissioner, the employe may appeal to the board.

(11) Any state employe, applicant for employment, or eligible on a register may appeal to the personnel board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employe, applicant or eligible, and whether

his right to inspect or copy such was denied, abridged or impeded. If the board determines that the records related to the employe and that the right to inspect or copy such records has been denied, abridged or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employe, an applicant for employment and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(12) Any classified state employe may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, handicap, or age. Nothing herein shall be construed to preclude any classified or unclassified state employe from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, handicap or age in accordance with KRS Chapter 344.

(13) When an eligible's name is removed from a register, the commissioner shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board.

(14) (a) Any employe, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of such rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the commissioner pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (12) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(15) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employe's place of work. The department shall be responsible for the distribution of such forms.

(b) The appeal form shall be attached to any notice, or copy of such notice, of dismissal, demotion, suspension, fine, involuntary transfer or other penalization, reallocation, or notice of any other action an employe may appeal under the provisions of this Act. The appeal form shall instruct the employe to state whether he is a classified or unclassified employe, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal the name, address and telephone number of his attorney.

(c) The form shall also instruct a classified employe to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employe to make a short, plain, concise statement of the reason or cause given for his dismissal.

(d) Upon receipt of the appeal by the board, the appointing authority and the department of personnel shall be notified and the board shall schedule a hearing within the time limits prescribed by this Act.

(16) All notices from the board shall be in writing. Notices shall be written so as to be understood by non-attorneys.

(17) (a) [~~Upon such review, both~~] The appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts.

(b) Except as provided herein, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this Act.

(c) The board may deny a hearing to an employe who has failed to file an appeal within the time prescribed

by this Act; and, to an unclassified employe who has failed to state the cause for which he has been dismissed. The board shall notify the employe of its denial in writing and shall inform the employe of his right to appeal such denial under the provisions of KRS 18A.100.

(d) Any investigation by the board of any matter related to an appeal filed by an employe shall be conducted only upon notice to the employe, the employe's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by such investigations and such information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon such information.

(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts and information contained in the record.

(18) At the hearing of such appeals, technical rules of evidence shall not apply. *Upon its own motion or upon request by a party, the board may require the production by a party, a state employe or a state agency of documents, records and other material relevant to the appeal.*

(19) Each appeal shall be decided individually unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(20) Except as authorized by law, a board member shall neither initiate, participate in, nor consider ex parte or other communications concerning a pending or impending proceeding before the board. Board members shall abstain from public comment about a pending or impending proceeding before the board, and shall require similar abstention on the part of board personnel subject to the board's direction and control. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(21) (a) An appeal to the board may be heard by*:*

1. The full board;

2. Two (2) board members;

3. A member of the board and its executive director;

4. A member of the board and a hearing officer;

5. The executive director and a hearing officer; or

6. The general counsel of the board and either a member of the board, the executive director or a hearing officer [~~individual members of the board, by its executive director or by a hearing officer of the board~~].

(b) Any appeal heard by less than the full board shall be *reviewed by the full board before a final order of the board is issued.*

1. Prior to a final order of the board, the board shall provide a copy of the findings of fact and recommendations to the parties to the appeal and shall provide them with an opportunity to submit written exceptions and responses to such findings of fact and recommendations. At the request of a party or on its own motion, the board shall permit oral argument before the full board. Such request shall be filed with the board within fifteen (15) days of the recommended order issued by a member, the executive director, or a hearing officer.

2. The board shall review the record of the evidence presented, the findings of fact and recommendations of the hearing officer, and the written exceptions and responses filed by parties to the appeal [~~subject to review by the full board upon petition for such review by either party to the appeal. Petition for review by the full board shall be filed with the board within thirty (30) days of the recommended order issued by a member, the executive director, or a hearing officer~~].

(22) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or handicap, the appointing authority shall, *immediately reinstate* [~~not later than thirty (30) days after receipt of such findings and recommendations, reinstate~~] the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the *immediate reinstatement of the* employe [~~reinstated~~] to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole.

(c) [~~In all other cases,~~] If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify or rescind the disciplinary action.

(d) In all other cases, the board shall rescind the action taken or otherwise grant such other relief to which the employe is entitled.

(23) (a) If a final order of the board invalidating the dismissal, demotion, suspension or other penalization of an employe is not appealed by the appointing authority within thirty (30) days after its entry, the board shall award reasonable attorney fees pursuant to the provisions of Section 24 of this Act.

(b) If a final order of the board invalidating the dismissal, demotion, suspension or other penalization of an employe is appealed by the appointing authority within thirty (30) days after its entry and the employe prevails by a final adjudication on the merits, the court shall award reasonable attorney fees pursuant to the provisions of Section 24 of this Act. Such fees shall include attorney fees incurred as a result of the hearing before the board.

(24) [~~The appointing authority shall, not later than thirty (30) days after receipt of the final order of the board, comply with such final order.~~] When any employe is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list, for employment in any similar position other than the one from which he had been removed.

(25) After a final decision has been rendered by the board or court, an employe who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employes who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

[~~(2) Any unclassified employe who is dismissed without cause shall not have the right of appeal as provided in this section.~~]

(26)[~~(3)~~] The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition thereof.

(27) If the appointing authority appeals the final order of the board, the reinstated employe shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

Section 16. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall *promulgate comprehensive administrative regulations* [~~prepare and submit to the board proposed rules~~] for the classified service *governing:*

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Rules for the unclassified service; and

(h) Types of appointments;

(i) Attendance; hours of work; compensatory time; annual, court, military, sick, voting and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employes may accumulate leave time below the rate effective on December 10, 1985.

(2) (a) The commissioner shall not promulgate administrative regulations relating to evaluation of state employes.

(b) Except as provided by Section 21 of this Act, the commissioner shall not promulgate administrative regulations that would reduce an employe's salary.

(c) As provided by subsection (4)(e) of Section 13 of this Act, the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months, but not to exceed twelve (12) months, to the board for its approval.

(3) (a) Such *administrative regulations shall comply with the provisions of this Act and KRS Chapter 13A, and* [~~rules~~] shall have the force and effect of law[~~, when approved by the board,~~] after *compliance* [~~public notice and public hearing, and after filing~~] with the *provisions of* [~~legislative research commission in accordance with~~] KRS *Chapters* [~~Chapter~~] 13*A and 18A* and *the* procedures adopted thereunder.

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employes and administrative bodies by the provisions of this Act.

(c) No administrative body other than the department of personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(4) Prior to filing an administrative regulation with the legislative research commission, the commissioner shall submit such administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it.

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner.

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary.

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the legislative research commission pursuant to the provisions of KRS Chapter 13A.

[~~If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board.~~]

(5) The *administrative regulations* [~~rules~~] shall provide:

(a)[~~(1)~~] For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. [~~After such classification has been approved by the board,~~]

1. The commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. *The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position.*

2. The secretary of the finance and administration cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the finance and administration cabinet on the basis of the availability of funds. The finance and administration cabinet shall notify the department of any review and approval conducted under the provisions of this section [~~Any employe affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner~~];

(b)[~~(2)~~] For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the finance and administration cabinet. The plan shall take into account such factors as*:*

1.[~~(a)~~] The relative levels of duties and responsibilities of various classes of positions;

2.[~~(b)~~] Rates paid for comparable positions elsewhere *taking into consideration the effect of seniority on such rates*; and

3.[~~(c)~~] The state's financial resources.

[~~Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board.~~] Amendments to the pay plan *shall* [~~may~~] be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, *provided that the full amount of the annual increment provided for by the provisins of this Act, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employe's base salary or wages*;

(c)[~~(3)~~] For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. *Except as provided by this Act, he*[~~, and~~] shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(d)[~~(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;~~

~~(5)~~] *As provided by this Act,* for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. *Except as provided by this Act,* eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the *commissioner* [~~board~~] for a period not to exceed one (1) additional year;

(e)[~~(6)~~] For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience;[~~, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics,~~] or who have attempted any deception or fraud in connection with an examination;

(f)[~~(7)~~] *Except as provided by this Act,* for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

[~~(8) For a period of probation not to exceed one (1) year before appointment or promotion may be made~~

~~complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;~~]

(g)[~~(9)~~] For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h)[~~(10)~~] For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

[~~(11) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;~~

~~(12) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;~~

~~(13) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;~~

~~(14) For layoffs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off, giving consideration in both layoffs and reemployment to qualifications, performance records, conduct and seniority in service;~~

~~(15) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;~~

~~(16) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;~~

~~(17) For establishment of a plan for resolving employe grievances and complaints;~~]

(i)[~~(18)~~] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided *by this Act* [~~in subsection (2) of KRS 18A.075~~];

(j) For layoffs, in accordance with the provisions of this Act, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k)[~~(19)~~] For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

[~~(20) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;~~]

(l)[~~(21)~~] For such other [~~rules and~~] administrative regulations not inconsistent with *this Act and KRS Chapter 13A* [~~KRS 18A.005 to 18A.200~~], as may be proper and necessary for its enforcement.

Section 17. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employes of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employes for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsections (1)(e), (1)(g) and (1)(h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employes of such institutions; officers and employes of the teachers' retirement system; and officers, teachers, and employes of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45.700 to 45.720;

(p) Seasonal, temporary, and emergency employes;

(q) Federally funded time-limited employes;

(r) Officers and members of the state militia;

(s) State police troopers and sworn officers in the bureau of state police, department of justice;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) *Career employes within the* classified *service* [~~employes with status~~] promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be *appointed to* [~~considered for employment in~~] any vacant position for which they *are or* were qualified. *If no such vacant position exists, the provisions of* [~~pursuant to~~] KRS 18A.130 and 18A.135 *shall apply.*

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 18. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or handicap. No person between the ages of forty (40) and seventy (70) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) *Employes* [~~No employe~~] in the classified service, *members* [~~or member~~] of the board or its executive director, *the* [~~or~~] commissioner *and classified employes appointed to a position exempted from the classified service who have elected to retain the right to revert granted by KRS 18A.115(4)* shall, *not* directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of*:*

(a) Any employe in the classified service*;*

(b) Any classified employe appointed to a position exempted from the classified service who has elected to retain the right to revert granted by KRS 18A.115(4).

(4) *Employes* [~~No employe~~] in the classified service, *members* [~~or member~~] of the board or its executive director *and classified employes appointed to a position exempted from the classified service who have elected to retain the right to revert granted by KRS 18A.115(4)* shall *not* be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or [~~shall~~] take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service *and classified employes appointed to a position exempted from the classified service who have elected to retain the right to revert granted by KRS 18A.115(4)* may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

(5) In order to retain the right to revert granted by KRS 18A.115 (4), upon appointment to a position in the unclassified service a classified employe shall sign an affidavit stating that:

(a) He has elected to retain his right to revert; and

(b) He shall comply with the provisions of subsections (3) and (4) of this section.

Section 19. KRS 18A.155 is amended to read as follows:

(1) The commissioner shall prepare and submit proposed *administrative regulations* [~~rules~~] to the governor for employes in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), (u), and (v) of subsection (1) of KRS 18A.115. Such *administrative regulations* [~~rules~~] shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The *administrative regulations* [~~rules~~] shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the secretary of the department of finance, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner through the secretary of the department of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in subsection (2) of KRS 18A.075;

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of *administrative regulations* [~~rules~~] promulgated under this section on behalf of employes enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 20. KRS 18A.202 is amended to read as follows:

[~~Subject to the approval of the personnel board.~~] The commissioner is authorized to install and implement by *administrative* regulation work-related incentive programs for state employes. Such programs may include, but need not be limited to, an employe suggestion system whereby employes in the classified service may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employe suggestion has been adopted and resulted in a financial savings to the state, the employe who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

Section 21. KRS 18A.355 is amended to read as follows:

(1) An annual increment of not less than five percent (5%) of the *base* [~~gross annual~~] salary or wages of each state employe shall be granted to each employe *on his anniversary date. The employe's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employe, the employe's base salary or wages shall be increased by the amount of such increment. An employe's base salary or wages shall not be increased by the amount of a cash bonus awarded him.*

(2) The *branch* [~~biennial~~] budget *recommendation* [~~report~~] submitted to the general assembly under KRS *Chapter 48* [~~45.110, 48.180 and 48.185~~] shall include a request for the amount of the annual increment expressed as a percentage of each employe's *base* [~~gross~~] salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employes. The financial plan enacted under the provisions of KRS 45.300 [~~and 48.500~~] shall contain the annual increment expressed as a percentage of each employe's *base* [~~gross~~] salary or wages, and the total appropriation needed to fund the annual increment.

(3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by Section 5 of this Act, are taken. Any such reduction shall be uniform for all state employes and shall comply with the provisions of this Act and KRS Chapter 48.

Section 22. KRS 48.130 is amended to read as follows:

(1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, when projected or actual tax receipts accruing to the general fund or road fund are at least two and one-half percent (2 1/2%) but not more than five percent (5%) less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120.

(2) *(a)* In recommending budget reductions, the governor, the chief justice, and the legislative research commission shall not recommend universal percentage reductions but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan.

(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of Section 5 of this Act.

(c) A layoff of state employes in the executive branch under the budget reduction plan enacted by the general assembly shall comply with the provisions of Section 5 of this Act.

(d) A layoff of state employes in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of Section 5 of this Act.

(3) The plan shall be enacted as modified by the general assembly, in each joint budget resolution.

(4) In the event of an actual or projected deficit in tax receipts provided for by this section, the department of revenue shall notify all branches of government:

(a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the joint budget resolution, and the governor, the chief justice, and the legislative research commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the joint budget resolution*; and* [~~.~~]

(b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the joint budget resolution shall not be implemented.

(5) In the event of an actual or projected deficit in tax receipts provided for by this section of less than two and one-half percent (2 1/2%), the governor, the chief justice, and the legislative research commission shall implement budget reductions for their respective branches on their own initiative.

(6) The budget reduction plan shall provide that the annual increment granted state employes under Section 21 of this Act shall be reduced as provided by this Act. Any such reduction of the annual increment shall be uniform for all employes.

(7) If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.

(8)[~~(7)~~] This section shall not preclude the general assembly, in regular or special session, from amending a joint budget resolution requiring budget reductions nor shall it preclude the governor from calling a special session of the general assembly at any time the budget reduction plan is in effect.

Section 23. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research, in conjunction with an application for a loan, the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise. This exemption shall not, however, apply to records the disclosure or publication of which is directed by other statute.

(c) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. Provided, however, that this exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (b) above.

(d) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired; provided, however, the law of eminent domain shall not be affected by this provision.

(e) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again.

(f) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. Provided, however that the exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884.

(g) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency.

(h) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended.

(i) All public records or information the disclosure of which is prohibited by federal law or regulation.

(j) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the general assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) *No exemption in this section shall be construed to deny, abridge or impede the right of a state employe, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. Such records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores and preliminary and other supporting documentation. A state employe, applicant or eligible shall not have the right to inspect or to copy any examination.*

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the non-excepted material available for examination.

(5)[~~(4)~~] The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

Section 24. KRS 453.260 is amended to read as follows:

(1) In addition to any costs which are awarded as prescribed by statute, a court shall award costs to any party which prevails by a final adjudication on the merits in any of the following:

(a) A civil action brought by the Commonwealth against the party;

(b) A civil action brought by the party against the Commonwealth to challenge the assessment or collection of taxes;

(c) A court proceeding to review an administrative review board decision, where the original administrative action was brought by the Commonwealth against the party.

(2) The court in its discretion may deny the award provided for in this section, or may reduce the award, if it finds that:

(a) During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter; or

(b) The reason that the party other than the Commonwealth has prevailed is an intervening change in the applicable statutes, regulations or case law; or

(c) The prevailing party refused an offer of civil settlement which was at least as favorable to the party as the relief ultimately granted; or

(d) The position of the Commonwealth was substantially justified or a special circumstance would make an award unjust provided, however, that the burden of proof of substantial justification or special circumstance shall rest with the Commonwealth.

(3) A party may apply pursuant to the applicable Rules of Civil Procedure for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized and attested statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed. The party shall also allege in such application that the Commonwealth acted without substantial justification.

(4) The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of services furnished, except that:

(a) An expert is not eligible for compensation at a rate in excess of the prevailing rate of compensation for similar experts paid by the Commonwealth;

(b) The award of attorney fees may not exceed the amount which the prevailing party has paid or has agreed to pay the attorney or a maximum amount of forty dollars ($40.00) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee;

(c) No award shall be greater than ten thousand dollars ($10,000) to each party except that no award shall be made to any party who voluntarily intervenes in any such action.

(5) This section does not:

(a) Apply to an action arising from a proceeding before the Commonwealth in which the role of the Commonwealth was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, or to adjudicate a dispute or issue between private parties or to establish or fix a rate. As used in this subsection, monetary benefit or its equivalent shall not include a license, permit, charter or similar instrument that the Commonwealth may require to engage in a business, profession or similar activity;

(b) Apply to proceedings brought by the Commonwealth pursuant to KRS Chapters 218A, 431 to 439, and 500 to 534;

(c) Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which the Commonwealth is a nominal party;

(d) Personally obligate any officer or employe of the Commonwealth for the payment of an award entered under this section;

(e) Apply to proceedings brought pursuant to KRS Chapters [~~18,~~] 209, 342 and KRS 199.011 to 199.630.

Section 25. KRS 18A.350 is amended to read as follows:

As used in [~~this~~] KRS 18A.355 [~~and 18A.360,~~] "employe" means any officer or employe of the executive branch of government. The provisions of KRS 18A.355 [~~and 18A.360~~] do not apply to employes of the general assembly, the legislative research commission, or the court of justice, or to any constitutional officer.

SECTION 26. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

No provision in this chapter shall be construed to preclude any classified or unclassified state employe from appealing to the personnel board any action alleged to be in violation of laws prohibiting discrimination based on sex, age, religion, handicap, or race or national origin, in accordance with this chapter.

Section 27. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, *the department of personnel,* and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government—Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

(b) Kentucky council on agriculture.

7. Department of education.

(a) Superintendent of public instruction.

(b) State board of education.

8. Auditor of public accounts.

9. Railroad commission.

II. Program cabinets headed by appointed officers:

1. Justice cabinet:

(a) Department of state police.

(b) Department of training.

(c) Office of administration.

2. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

(c) Department for libraries and archives.

(d) State advisory council for vocational education.

(e) Kentucky industries for the blind.

(f) Kentucky educational television.

(g) Kentucky historical society.

(h) Kentucky teachers retirement system board of trustees.

(i) Kentucky school building authority.

3. Natural resources and environmental protection cabinet:

(a) Environmental quality commission.

(b) Kentucky nature preserves commission.

(c) Department for environmental protection.

(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.

(f) Office of general counsel.

(g) Office of communications and community affairs.

4. Transportation cabinet:

(a) Department of highways.

(b) Department of vehicle regulation.

(c) Department of administrative services.

(d) Department of fiscal management.

(e) Department of rural and municipal aid.

(f) Office of aeronautics.

(g) Office of general counsel.

(h) Office of public relations.

(i) Office of personnel management.

(j) Office of minority affairs.

5. Commerce cabinet:

(a) Department of economic development.

(b) Department of the arts.

(c) Tobacco research board.

(e) Kentucky development finance authority.

6. Public protection and regulation cabinet:

(a) Public service commission.

(b) Department of insurance.

(i) Custodian of insurance securities.

(c) Department of housing, buildings, and construction.

(d) Department of financial institutions.

(e) Department for mines and minerals.

(f) Department of public advocacy.

(g) Department for alcoholic beverage control.

(h) Kentucky harness racing commission.

(i) Kentucky state racing commission.

(j) Registry of election finance.

(k) Board of claims.

(l) Crime victims compensation board.

(m) Kentucky board of tax appeals.

(n) Backside improvement commission.

7. Cabinet for human resources:

(a) Department for health services.

(b) Department for employment services.

(c) Department for social insurance.

(d) Department for social services.

(e) Unemployment insurance commission.

(f) Public assistance appeals board.

(g) Office of administrative services.

(h) Office of communications and council affairs.

(i) Office of general counsel.

(j) Office of inspector general.

(k) Office of policy and budget.

(l) Office of the ombudsman.

8. Finance and administration cabinet:

(a) Office of legal and legislative services.

(b) Office of management services.

(c) Office of historic properties.

(d) Department for administration.

(e) Department of facilities management.

(f) Department of information systems.

(g) State property and buildings commission.

(h) Kentucky pollution abatement authority.

(i) Kentucky savings bond authority.

(j) Deferred compensation systems.

(k) Office of equal employment opportunity contract compliance.

(l) Capital plaza authority.

(m) County officials compensation board.

(n) Financial disclosure review commission.

(o) Kentucky employes retirement systems.

(p) Commonwealth credit union.

(q) State investment commission.

(r) Kentucky housing corporation.

(s) Governmental services center.

(t) Kentucky local correctional facilities construction authority.

(u) Kentucky turnpike authority.

(v) Historic properties advisory commission.

9. Energy cabinet:

(a) Department of energy production and utilization.

(b) Department of energy research and development.

(c) Office of administration.

(d) Office of energy policy and evaluation.

10. Corrections cabinet:

(a) Parole board.

(b) Commission on corrections and community services.

(c) Department of adult correctional institutions.

(d) Department of community services and facilities.

(e) Office of administrative services.

(f) Office of corrections training.

(g) Office of general counsel.

11. Labor cabinet:

(a) Department of workplace standards.

(b) Department of workers' claims.

(c) Kentucky labor-management advisory council.

(d) Occupational safety and health standards board.

(e) Prevailing wage review board.

(f) Workers' compensation board.

(g) Kentucky employes insurance association.

(h) Apprenticeship and training council.

(i) State labor relations board.

(j) Kentucky occupational safety and health review commission.

(k) Office of administrative services.

(l) Office of labor management relations.

(m) Office of general counsel.

12. Revenue cabinet:

(a) Department of property taxation.

(b) Department of processing and enforcement.

(c) Department of professional and support services.

(d) Office of revenue estimating and economic analysis.

13. Tourism cabinet:

(a) Department of travel development.

(b) Department of parks.

(c) Department of fish and wildlife resources.

(d) Kentucky horse park.

(e) State fair board.

(f) Office of administrative services.

(g) Office of general counsel.

III. Other departments headed by appointed officers:

1. Department of military affairs.

2. Department of personnel.

3. Council on higher education.

4. Department of local government.

5. Kentucky commission on human rights.

6. Kentucky commission on women.

Section 28. KRS 18A.055, Board elections to be held by department—Campaign restrictions, and KRS 18A.360 Increase or reduction of annual increment, is repealed.

HB 682, AN ACT relating to personal service contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.700 is amended to read as follows:

(1) As used in KRS 45.705 to 45.720:

(a) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the legislature, authorized by law to contract for personal services;

(b) "Governmental emergency" means an unforeseen event or set of circumstances which creates an immediate need for services, which is necessary for maintenance of governmental operations or to prevent or minimize injury or damage;

(c) "Subcommittee" means personal service contract review subcommittee;

(d) "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain duties, professional or otherwise for a specified period of time for a price agreed upon, which are exempted from competitive bidding pursuant to KRS 45.360. This definition does not apply to agreements with public utilities, foster care parents, medicaid providers, individuals performing homemaker services, transit authorities, agreements between a state agency and a state college or university, agreements between a state agency and an area development district, agreements between a state agency and a community action agency, agreements between a state agency and a mental health/mental retardation board, agreements between a state agency and another state agency, agreements between a state agency and a political subdivision, [~~and~~] agreements between state universities and employers of students in the Commonwealth work study program sponsored by the Kentucky higher education assistance authority, *and agreements between a state agency and rural concentrated employment programs.*

(2) Compliance with the provisions of KRS 45.705 to 45.720 does not dispense with the requirements of any other law necessary to make the personal service contract valid.

HB 691, AN ACT proposing an amendment to the Kentucky Constitution relating to a candidate preference tabulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that the following new section be added to the Kentucky Constitution to read as follows:

A statewide referendum shall be conducted during each year prior to the year in which a presidential election is scheduled. The referendum shall be conducted in such manner as shall be provided by law and shall be a presidential candidate preference tabulation, at which names of presidential candidates are placed on the ballot and the results tabulated and reported.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

SB 50, AN ACT relating to the Mississippi River Parkway Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission will henceforth be attached to the transportation cabinet for administrative purposes.

(2) The commission shall consist of seven (7) members. Four (4) shall be appointed by the governor for a term of four (4) years and may serve until a successor is appointed and qualified. The fifth member shall be the secretary of the tourism cabinet, who shall serve in an ex officio capacity with full voting rights. The sixth

member shall be the secretary of the commerce cabinet, who shall serve in an ex officio capacity with full voting rights. The seventh member shall be the secretary of the transportation cabinet, who shall serve as chairman with full voting rights. The commission shall meet on call of the chairman who shall notify all members in writing in advance. Four (4) members present shall constitute a quorum for the official conduct of business.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman and Fulton.

Section 2. The General Assembly confirms the reorganization of the Transportation Cabinet by Executive Order 84-584, issued on July 5, 1984, to the extent it is not otherwise confirmed by this Act.

SB 52, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.025 is amended to read as follows:

(1) The governor shall appoint the commissioner of personnel as provided in KRS 18A.015, who shall be considered an employe of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The department of personnel shall be attached to the office of the secretary of the governor's executive cabinet, and the commissioner shall have such duties and responsibilities as assigned by the secretary of the executive cabinet, and shall be responsible to and report to the secretary.

(3) There is established within the department of personnel the following divisions, each of which shall be headed by a director appointed by the commissioner subject to the prior approval of the governor, pursuant to KRS 12.050;

(a) The division of classification and compensation, which shall be responsible for the maintenance of plans of classification and compensation for the state service, *and*[~~;~~] for the review and evaluation of these plans; [~~for the coordination of performance appraisal programs for state employes; for design and administration of employe benefits; for coordination of the workers' compensation program; and for the coordination of programs providing services to employes;~~]

(b) The division of applicant counseling and examinations, which shall be responsible for the operation of a centralized applicant and employe counseling program, operation of an examination program for state employment, preparation of registers of candidates for state employment, *and* coordination of [~~equal employment opportunity and~~] affirmative action, and outreach programs such as the administrative intern program;

(c) The division of payroll administration, which shall be responsible for the maintenance of central personnel files for state employes, processing of personnel documents and personnel and position actions, operating and maintaining a uniform personnel payroll system, and certification of payrolls of various state agencies*; and*[~~.~~]

(d) The division of employe benefits, which shall primarily be responsible for designing and administering programs pertaining to employe benefits, appraising or evaluating employe work performance, affirmative action, and counseling employes in the areas of drug and alcohol abuse.

(4) The department shall include such principal assistants appointed by the commissioner, pursuant to KRS 12.050, as may be necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of this chapter, such personnel as necessary to execute the functions and duties of the department.

Section 2. The General Assembly confirms the reorganization of the department of personnel by Executive Order 85-792, issued on October 10, 1985, to the extent it is not otherwise confirmed by this Act.

HCR 75, A CONCURRENT RESOLUTION in support of honoring Man o' War on a U.S. commemorative postage stamp.

WHEREAS, commemorative postage stamps have honored other horse breeds, but not thoroughbreds specifically; and

WHEREAS, Man o' War is probably the most famous U.S. thoroughbred, and in the eyes of many, the standard by which all others are compared; and

WHEREAS, a 1950 A.P. poll overwhelmingly voted Man o' War the greatest horse of the first half of the twentieth century; and

WHEREAS, the amazing career of this Kentucky-born horse consisted of twenty wins and one place out of twenty-one starts.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly wholeheartedly endorses the proposal to honor Man o' War on a U.S. stamp.

Section 2. That copies of this resolution be sent to Mrs. Theresa Fitzgerald, who initiated this proposal, and to the U.S. Postal Service, Citizen Stamp Advisory Commission.

The Committee on State Government reported **HB 326**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 326** is as follows:

Amend printed copy of Committee Substitute for **HB 326**:

On page 2, line 7, by deleting "*138.810*" and inserting in lieu thereof "*134.810*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 755**, **HB 754**, **HB 753**, **HB 769**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 11**, **SB 13**, **SB 51** and **SB 57** had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—2:12 p.m.)

HB 11 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 342, **HB 427**, **HB 523**, **HB 529**, **HB 618**, **HB 666**, **HB 738**, **SB 207**, **HB 329**, **HB 553**, **SB 208**, **HB 224**, **HB 225**, **HB 494**, **HB 339**, **HB 374**, **HB 537**, **HB 561**, **HB 627** and **HB 698** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HR 69 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that HR 69 be adopted.

On the roll call the vote was: Yeas 93, Nays 0. (See February 27, 1986, roll call on HR 69—Appendix A.)

HR 69 was adopted and the title agreed to.

Representative Reinhardt moved that the vote by which HR 69 was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 515 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that HB 515 be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See February 27, 1986, roll call on HB 515—Appendix A.)

HB 515 was passed and the title agreed to.

Representative Crupper moved that the vote by which HB 515 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 516, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Amendment No. 1 to HB 516. Agreed.

Representative Lear moved the adoption of the Floor Amendment No. 2 to HB 516. Agreed.

Representative Lear moved that HB 516, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 27, 1986, roll call on HB 516—Appendix A.)

HB 516, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which HB 516, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 464, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved the adoption of the Committee Amendment No. 1 to HB 464. Agreed.

Representative McNutt moved that HB 464, as amended, be passed.

On the roll call the vote was: Yeas 47, Nays 46. (See February 27, 1986, roll call on HB 464—Appendix A.)

HB 464, as amended, was passed and the title agreed to.

Representative McNutt moved that the vote by which HB 464, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 213, HB 241, and HB 41 had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—2:50 p.m.)

HB 213, HB 241 and HB 41 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 571, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Floor Amendment No. 1 to HB 571. Agreed.

Representative Arnold moved that HB 571, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 27, 1986, roll call on HB 571—Appendix A.)

HB 571, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which HB 571, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 444, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that HB 444 be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See February 27, 1986, roll call on HB 444—Appendix A.)

HB 444 was passed and the title agreed to.

Representative Mann moved that the vote by which HB 444 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to HB 511. Agreed.

Representative Blevins moved the adoption of the Floor Amendment No. 1 to HB 511. Agreed.

Representative Blevins moved that adoption of the Floor Amendment No. 2 to HB 511. Agreed.

Representative Blevins moved that HB 511, as amended, be passed.

On the roll call the vote was: Yeas 73, Nays 12. (See February 27, 1986, roll call on HB 511—Appendix A.)

HB 511, as amended, was passed.

Representative Blevins moved the adoption of the Floor Title Amendment to HB 511. Agreed; and the title was agreed to.

Representative Blevins moved that the vote by which HB 511, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to HB 17. Agreed.

Representative Farrow moved that HB 17, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 10. (See February 27, 1986, roll call on HB 17—Appendix A.)

HB 17, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which HB 17, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 158, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that SB 158 be passed.

Representative J. Harper moved the adoption of the Floor Amendment No. 1 to SB 158. Rejected.

On the roll call the vote was: Yeas 85, Nays 0. (See February 27, 1986, roll call on SB 158—Appendix A.)

SB 158 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which SB 158 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 29, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Amendment No. 1 to HB 29. Agreed.

Representative Scorsone moved that HB 29, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 24. (See February 27, 1986, roll call on HB 29—Appendix A.)

HB 29, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which HB 29, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 2 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—3:12 p.m.)

Orders of the Day (Continued)

SB 10, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that SB 10 be passed.

Representative Mack moved the adoption of the Floor Amendment No. 1 to SB 10.

On the roll call the vote was yeas 36—Allen, Bendl, Brinkley, M. Brown, Caldwell, P. Clark, Cline, Crupper, Cyrus, Ellington, Ford, Gray, Guenthner, Heleringer, Holloway, Jensen, Layman, Lefevers, Lile, Little, Lyne, Mack, Moberly, Napier, Noland, Overstreet, Preston, Pritchett, Rattliff, Rose, Siler, Stewart, Stone, Turner, Williams, Worthington. Nays 52—Arnold, Barrows, Bennett, Blandford, Blevins, Bronger, F. Brown, Bruce, Burch, Clapp, L. Clark, Clarke, Cowan, Curd, Deskins, Donnermeyer, Farrow, Freibert, Gregory, J. Harper, K. Harper, Head, Holbrook, Johnson, R. Jones, T. Jones, Kerr, Lear, LeMaster, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Morris, Nett, O'Brien, Pearman, Rapier, Richards, B. Richardson, Riner, Scorsone, Seum, Smith, Strong, Stumbo, Thomas, White. Yates.

Floor Amendment No. 1 to SB 10 was rejected.

On the roll call the vote was: Yeas 80, Nays 16. (See February 27, 1986, roll call on SB 10—Appendix A.)

SB 10 was passed and the title agreed to.

Representative Mann moved that the vote by which SB 10 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 435, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved that HB 435 be passed.

On the roll call the vote was: Yeas 73, Nays 5. (See February 27, 1986, roll call on HB 435—Appendix A.)

HB 435 was passed and the title agreed to.

Representative Stone moved that the vote by which HB 435 was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 1, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HJR 1 is as follows:

Amend printed copy of HJR 1, as follows:

On page 1, lines 1 and 2, by deleting after the word "the" the following: "Cabinet for Human Resources is directed to request from the";

On line 3, by inserting after the word "Assembly" the following: "should assure the availability of services for abused spouses needing service by appropriating".

Representative Burch moved that the House concur in the Senate Amendment No. 1 to HJR 1. Agreed.

Representative Burch moved that HJR 1, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 4. (See February 27, 1986, roll call on HJR 1—Appendix A.)

HJR 1, as amended by the Senate, was passed and the title agreed to.

Representative Burch moved that the vote by which HJR 1, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 489, with Senate Committee Substitute attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to HB 489 is as follows:

HB 489, AN ACT relating to transient merchants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Transient merchant" means any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise or commodities of any kind, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle or real estate; and

(2) "Temporary or transient business" means any business conducted for the sale or offer for sale of goods, wares or merchandise which is carried on in any building, structure, motor vehicle or real estate in one (1) locality for a period of less than six (6) months in each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to:

(1) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;

(2) Wholesale trade shows or conventions;

(3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) Participants in fairs and convention center activities when the participants' businesses are conducted primarily for amusement or entertainment;

(5) Any general sale, fair, auction or bazaar sponsored by any religious, educational, public service or charitable organization;

(6) Garage sales held on the premises devoted to residential use;

(7) Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;

(8) Sales of locally grown agricultural products;

(9) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;

(10) Sheriffs, constables, or other public or court officers, or any other person or persons acting under the direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties;

(11) Flea market vendors who can demonstrate compliance with KRS 139.550;

(12) Professions and occupations licensed and regulated by the state when the activities are performed within the scope of their respective statutory and regulatory authority; and

(13) Temporary sales at another location by businesses with a permanent business location within the state of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any transient merchant to transact business in any county of this state unless such merchant and the owners of any goods, wares or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a permit and shall have otherwise complied with the requirements of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which such merchant desires to transact business. The application for permit shall be designed and distributed by the revenue cabinet, shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in Section 7.

The absence of any of the above information shall result in the denial of such permit by the county clerk.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

The county clerk shall forward a copy of each approved application to the revenue cabinet and to the office of the attorney general within ten (10) days of approval.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each registered agent designated by a transient merchant in the application for a permit shall be a resident of the state and shall be agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served. The registered agent shall agree in writing to act as such agent and a copy of the agreement to so act shall be filed with the application for a permit.

(2) If any transient merchant doing business or having done business in any county within the state shall fail to have or maintain a registered agent in the state or if such registered agent cannot be found at his permanent address, the secretary of state shall be agent of such transient merchant for service of all process, notices or demands.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Each application for a transient merchant permit shall be accompanied by a permit fee of twenty-five dollars ($25) to be retained by the office of the county clerk or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally. In addition, any applicant who will be selling goods, wares or merchandise during the permit period which have an aggregate market value of one thousand five hundred dollars ($1,500) or more, shall secure and submit evidence of security, a cash bond or a surety bond in the amount of one thousand dollars ($1,000) or five percent (5%) of the retail value of any goods, wares or merchandise to be offered for sale, whichever sum is greater. Such evidence of security shall be held by the attorney general and he shall issue a certificate of security to be used by the applicant as evidence of security.

(2) The surety bond required by this section shall be in favor of the Commonwealth of Kentucky and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political

subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employes for violation of the provisions of this Act, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employes in any cause of action commenced by any purchaser of goods, wares or merchandise within one (1) year from the date of the sale by such transient merchant.

(3) The bond shall be maintained so long as the transient merchant conducts business in the Commonwealth of Kentucky and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the attorney general that it has satisfied all claims of purchasers of goods, wares or merchandise from such merchant, and that all state and local sales taxes and other taxes have been paid.

SECTION 8. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

A transient business permit shall be used hereunder only when all requirements of this Act have been met. Such permit shall not be transferable, shall be valid only within the territorial limits of the issuing county, and shall be valid only for a period of ninety (90) days. A permit so issued shall be valid for only one (1) person, unless such person shall be a member of a partnership or employe of a firm or corporation obtaining such permit. The permit shall at all times be conspicuously displayed at any place that the transient merchant is transacting business. If the county clerk refuses to issue the permit, the applicant may apply to the district court for a hearing. The clerk shall notify the county attorney who shall appear in opposition to the issuance of the permit.

SECTION 9. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The county attorney may enforce the provisions of this Act by civil action for injunctive relief in the circuit court of his county. In such action to obtain said injunction it shall be sufficient to allege and prove that a violation of this Act has occurred or is about to occur, and it shall not be necessary to allege or prove that any person has been damaged or sustained any loss as a result of any violation of this Act.

(2) When the provisions of this Act are enforced by the county attorney through civil action, he may ask for and the court may assess a civil penalty for the benefit of the Commonwealth, not to exceed the sum of two thousand dollars ($2,000), said penalty to be in lieu of all penalties set forth in Section 11 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed to limit the authority of counties or cities to levy additional license fees and to require additional bonding for transient merchants engaging in business in such counties or cities and to otherwise regulate transient merchants engaging in business in such counties or cities.

SECTION 11. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any person or entity that transacts a transient business as defined herein without first having obtained a permit in accordance with the provisions of this Act or who knowingly advertises, offers for sale, or sells any goods, wares or merchandise in violation of the provisions of this Act, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars ($500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

Representative Thomas moved that the House concur in the Senate Committee Substitute to HB 489. Agreed.

Representative Thomas moved that HB 489, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 3. (See February 27, 1986, roll call on HB 489—Appendix A.)

HB 489, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which HB 489, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table.

Motions, Petitions and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 464, by Representative Ellington:

Amend printed copy of HB 464:

On page 3, beginning on line 1, by removing the "brackets" and deleting the strike-through ending on line 7; line 8, by removing the brackets and deleting the strike-through on the number "(4)".

Floor Amendment No. 1 to HB 588, by Representative P. Clark:

Amend printed copy of HB 588:

On page 2, lines 10 and 11, to delete the same, and to insert in lieu thereof:

"*(5) This Section shall not apply to:*

(a) Matters where there is a Federal statute or regulation to the contrary;

(b) Cases where a charge is dismissed in exchange for a guilty plea to another charge;

(c) Cases where a charge is dismissed as a result of a diversion program;

(d) Cases where a charge is dismissed as a result of a mediation program;

(e) Cases where a charge is dismissed as a result of completion of traffic school or other court ordered or related program;

(f) A person who has been convicted of a felony.

(6) The expungement of a record pursuant to this section shall not be grounds for an action for false arrest or unlawful imprisonment against any peace officer.

(7) The unintentional failure by any state or local agency or their agents or employees to comply with the provisions of this section shall not give rise to any right or cause of action by the applicant for expungement or any other person."

Floor Amendment No. 4 to HB 64, by Representative Farrow:

Amend printed copy of HB 64:

on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of one *hundred thousand dollars ($100,000) and proof of financial responsibility in the sum of one hundred thousand dollars ($100,000)* [~~one million dollars ($1,000,000)~~] due to all bodily injuries or deaths per occurrence. Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.

Floor Amendment No. 3 to HB 64, by Representative Farrows:

Amend printed copy of HB 64:

on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of *three hundred thousand dollars ($300,000)* [~~one million dollars ($1,000,000)~~] due to all bodily injuries or deaths per occurrence. Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.

Floor Title Amendment to HCR 65, by Representative Cowan:

Amend printed copy of Committee Substitute for HCR 65:

On page 1 line 4 of the title after "balanced" by deleting the following:

", or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment for submission to the states"

Floor Amendment No. 5 to HB 64, by Representative Crupper:

Amend printed copy of HB 64:

on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of *three hundred thousand dollars ($300,000)* [~~one million dollars ($1,000,000)~~] due to all bodily injuries or deaths per occurrence, *or in lieu thereof, if the applicant's amusement ride or amusement attraction is one (1) that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of liability insurance in the sum of one hundred thousand dollars ($100,000) or proof of financial responsibility in the sum of one hundred thousand dollars ($100,000).* Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

[~~(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.~~]

Section 3. Whereas, it is necessary for owners of amusement rides and attractions to obtain insurance before the recreation season begins, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Representative Donnermeyer requested that his vote be changed from "nay" to "yea" on HB 435. Agreed.

Representative Smith requested that he be recorded as voting "yea" on HB 511. Agreed.

Representative Lear requested that he be recorded as voting "nay" on HB 435. Agreed.

Representative Ford requested that he be recorded as voting "nay" on SB 10. Agreed.

Representative Richards moved that HB 789 be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 809, by Representative Maggard: AN ACT relating to oil and gas.

HB 810, by Representatives McElroy and Smith: AN ACT relating to a public utility.

HB 811, by Representatives Lefevers, Noland, Keith and J. Harper: AN ACT relating to higher education.

HB 812, by Representatives Guenthner and Heleringer: AN ACT relating to corrections and declaring an emergency.

HB 813, by Representative Hancock: AN ACT relating to state owned vehicles.

HB 814, by Representative Seum: AN ACT relating to prescription drugs and devices.

HB 815, by Representative Cline: AN ACT relating to reorganization.

HB 816, by Representative Cline: AN ACT relating to reorganization.

HB 817, by Representative Pearman: AN ACT relating to real estate transfer tax.

HB 818, by Representatives Bendl, Burch, Hines, Seum, Priddy, Cowan, Handy, Lile, Yates, Bronger, L. Clark, Nett, Bennett, P. Clark and O'Brien: AN ACT relating to county law libraries.

HB 819, by Representative Donnermeyer: AN ACT relating to cemetery merchandise.

HB 820, by Representatives McElroy and Arnold: AN ACT relating to soil erosion, and making an appropriation therefor.

HB 821, by Representative Dawahare: AN ACT relating to the public service commission.

HB 822, by Representatives J. Harper and Noland: AN ACT relating to the sales and use tax.

HB 823, by Representatives Riner and Morris: AN ACT relating to investments.

HB 824, by Representatives Ford, Napier and Maggard: AN ACT relating to state trees.

HB 825, by Representatives Clapp, Thomas, Barrows, Bendl, Bennett, Brinkley, Bronger, Bruce, Cyrus, Dawahare, Deskins, Friebert, Head, R. Jones, Lear, Long, Maggard, McBee, McElroy, Morris, Overstreet, Rapier, Seum, Stone, Strong, Stumbo and Worthington: AN ACT relating to the pari-mutuel tax.

HB 826, by Representative Freibert: AN ACT relating to the board of examiners and registration of architects.

HB 827, by Representatives Lear and Bennett: AN ACT relating to releases and assignments to real property.

HB 828, by Representatives Cowan, R. Jones and Holbrook: AN ACT relating to the judicial retirement plan.

HB 829, by Representatives Bendl, Morris, Overstreet, Handy and Hancock: AN ACT relating to day-care centers.

HB 830, by Representatives Little, Rose, Preston, M. Brown and Dawahare: AN ACT relating to surface coal mining.

HB 831, by Representatives Noe and Moberly: AN ACT restricting the investment of pension funds.

HB 832, by Representatives Guenthner and L. Clark: AN ACT relating to the sale of weapons.

HR 108, by Representative Lyne: A RESOLUTION honoring America's first Poet Laureate, Robert Penn Warren.

HR 109, by Representatives Donnermeyer, Johnson and Reinhardt: A RESOLUTION adjourning the House of Representatives in memory and honor of Robert Todd and Patricia Sweeney.

HR 110, by Representative J. Harper: A RESOLUTION commending the formation of the Western Kentucky Economic Development Region and its Council.

Representative Lyne moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lyne moved the adoption of the following HR 108:

HR 108, A RESOLUTION honoring America's first Poet Laureate, Robert Penn Warren.

We live in time so little time

And we learn all so painfully,

That we may spare this hour's term

To practice for eternity.

("Bearded Oaks")

WHEREAS, our nation's first official poet laureate was named in Washington, D.C., yesterday; and

WHEREAS, the writer so honored is Kentucky-born Robert Penn Warren, a native of Guthrie, in Todd County; and

WHEREAS, his many honors include the 1947 Pulitzer Prize for fiction, the Pulitzer Prize for poetry, in 1958 and in 1979, as well as the Bollingen Prize for Poetry, in 1966, and the National Book Award for poetry, in 1958; and

WHEREAS, Robert Penn Warren is the only American man of letters who could be said to stand at once in the first rank of American poets, the first rank of American novelists, and the first rank of American scholar/critics; and

WHEREAS, Robert Penn Warren's contributions as a teacher and explicator have enhanced the understanding of poetry and fiction for generations of readers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House hail one of Kentucky's most accomplished and dignified sons, Robert Penn Warren.

Section 2. That when the House adjourns this day, it does so in tribute to Robert Penn Warren.

Section 3. That copies of this resolution be sent to Robert Penn Warren and to the mayor of Guthrie, Kentucky.

HR 108 was adopted by voice vote.

Representative Donnermeyer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Donnermeyer moved the adoption of the following HR 109:

HR 109, A RESOLUTION adjourning the House of Representatives in memory and honor of Robert Todd and Patricia Sweeney.

In loving memory and with heartfelt sorrow we pay homage to the memory of Robert Todd and Patricia Sweeney, cherished native children of the Commonwealth.

WHEREAS, Robert Todd Sweeney, M.D., and his beloved wife, Patricia Bellew Sweeney, were tragically lost in an airplane crash in Guatemala; and

WHEREAS, crossing that final bourne from which no traveler returns, Todd and Patty Sweeney were taken from their loved ones on January 18, 1986, while enroute to visit ancient Mayan ruins; and

WHEREAS, born on August 25, 1946, in Owensboro, Kentucky, Robert Todd Sweeney, Jr. received a Bachelor of Arts degree in 1968 from prestigious Yale University in New Haven, Connecticut; and

WHEREAS, Robert Todd Sweeney patriotically served his country in the United States Navy from 1969 until 1974; and

WHEREAS, in 1978 Robert Todd Sweeney received his degree as a Doctor of Medicine from the University of Kentucky in Lexington; and

WHEREAS, Robert Todd Sweeney completed his residency in internal medicine at the University of Kentucky in 1981; and

WHEREAS, Robert Todd Sweeney joined the medical staff of St. Luke Hospital in Fort Thomas, Kentucky in 1981 as the Medical Director of the Emergency Department; and

WHEREAS, Robert Todd Sweeney served as Vice President of the St. Luke medical staff from January 1, 1985, until December 31, 1985; and

WHEREAS, Robert Todd Sweeney, on January 1, 1986, became the President-elect of the St. Luke medical staff; and

WHEREAS, Robert Todd Sweeney embodied the rare qualities of altruism, sincerity, humbleness, friendship and love for his fellow man; and

WHEREAS, Robert Todd Sweeney was loved by his friends, respected by his peers, admired by his business associates and appreciated by his patients; and

WHEREAS, Robert Todd Sweeney's attributes and abilities as a physician, planner and manager were unequaled, with Sweeney totally rebuilding the St. Luke Emergency Department, which will continue to stand as a tribute to his efforts and expertise; and

WHEREAS, Robert Todd Sweeney's beautiful and beloved wife, Patricia Bellew Sweeney, was born on March 10, 1950, in Owensboro, Kentucky; and

WHEREAS, Patricia Bellew Sweeney graduated from Owensboro Catholic High School in 1967 and received a Bachelor of Arts Degree in Education from the University of Kentucky in 1971; and

WHEREAS, from 1971 until 1978, Patricia Bellew Sweeney was a primary education teacher in Lexington; and

WHEREAS, Patricia Bellew Sweeney was an active member of the Junior League of Cincinnati, Ohio and the Kindervelt group affiliated with Children's Hospital of Cincinnati; and

WHEREAS, Vice-President of the Kindervelt No. 28, Patricia Bellew Sweeney was scheduled to become President in 1987; and

WHEREAS, Patricia Bellew Sweeney was the public relations chairman to the Junior League and was co-chairman for the "Kids on the Block" puppets; and

WHEREAS, originally a project of the Special Education Regional Resource Center and funded with federal grant dollars, the "Kids on the Block" is a 21 puppet troup with physical disabilities which is designed to help grade school children learn about, understand and accept their disabled and "different" classmates; and

WHEREAS, Patricia Bellew Sweeney had organized the "Kids on the Block" program in Lexington before moving to northern Kentucky and reactivating the program in Cincinnati; and

WHEREAS, Patricia Bellew Sweeney strived to teach young children empathy through the program rather than sympathy and Patty's legacy will continue to teach children to understand others and to love others in our communities; and

WHEREAS, the immeasurable contributions of Todd and Patty Sweeney and their love for all humanity make their loss a personal one to be greived by the entire community; and

WHEREAS, Todd and Patty Sweeney leave behind their adored sons, Robert Todd Sweeney III, age 7, and Patrick Sweeney, age 4; and

WHEREAS, affectionately known as "Trip" to his parents, Robert Todd Sweeney III and his younger brother Patrick are now under the watchful and loving care of their aunt and uncle, Libby and Norman Brown; and

WHEREAS, Robert Todd and Patricia Bellew Sweeney were eternally remembered by loved ones and friends in memorial services held in Lexington, Cincinnati, Owensboro and at the St. Luke Hospital in Fort Thomas; and

WHEREAS, the Robert Todd Sweeney Memorial Fund has been created at the St. Luke Hospital to benefit the Emergency Department;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body mourn the untimely passing of our children Robert Todd and Patricia Bellew Sweeney and commend their family to the solace of the Almighty to understand and endure this tragic event.

Section 2. That the House recognizes the outstanding accomplishments of both Todd and Patty Sweeney and hails their short lives to have been exemplary, shining representatives of the Commonwealth of Kentucky and of the nation.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, February 27, 1986, it does so in memory and honor of Robert Todd and Patricia Bellew Sweeney.

Section 4. That the Clerk of the House is directed to forward a copy of this resolution to Robert Todd Sweeney III and Patrick Sweeney in care of their guardians Libby and Norman Brown of 225 Barrow Street, Lexington, Kentucky 40502; to Todd's mother Mrs. Betty Harrington of 1375 Fontaine Road, Lexington, Kentucky 40502; to Patty's parents Mr. and Mrs. A. W. Bellew of 2003 Mayfair Drive, Owensboro, Kentucky 42302; and to Todd's colleagues in care of Mr. John Hoyle, Administrator of the St. Luke Hospital, Inc., 85 North Grand Avenue, Fort Thomas, Kentucky 41075.

HR 109 was adopted by voice vote.

The following meetings were announced:

Committee on State Government: On adjournment, Room 110.

Committee on Appropriations and Revenue: Monday, March 3, 1986, 2:00 p.m.

Judiciary-Criminal: On adjournment, Room 104.

Health and Welfare: Thirty minutes after adjournment, Room 109.

Joint Committee on Medicaid: March 3, 1986, 10:00 a.m.

Posting of Bills and Resolutions for Consideration

Appropriations and Revenue: HB 699, HB 126.

Counties and Special Districts: HB 777, SB 233.

Labor and Industry: HB 724, HB 767, HB 654.

State Government: HB 762, HB 781, HB 310.

Banking and Insurance: HB 702, HB 760, HB 763.

Judiciary-Criminal: HB 772.

Report of Committees

The Committee on Health and Welfare reported HB 589, HB 469, and HB 568 with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 589, AN ACT relating to abortion.

WHEREAS, it is in the interest of the people of the Commonwealth of Kentucky to protect minors against their own immaturity, foster the family structure and preserve it as a viable social unit, and protect the rights of parents to rear children who are members of their household; and

WHEREAS, immature minors often lack the ability to make fully informed choices that take account of both immediate and long range consequences; and

WHEREAS, the medical, emotional and psychological consequences of abortion are serious and can be lasting, particularly when the patient is immature; and

WHEREAS, the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related; and

WHEREAS, parents ordinarily possess information essential to a physician's exercise of best medical judgment concerning the child; and

WHEREAS, parents who are aware their minor daughter has had an abortion may better ensure that she receives adequate medical attention after her abortion; and

WHEREAS, parental consultation is usually desirable and in the best interests of the minor;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.732 is amended to read as follows:

(1) *For purposes of this section the following definitions shall apply:*

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent

to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon an unemancipated minor unless he or his agent or another physician, hereinafter called the "referring physician", or his agent, first obtains the written consent of both parents or the legal guardian of the minor. This consent shall be signed and notarized.

(3) If the minor's parents are divorced, or one (1) parent is not available to the person performing the abortion or his agent or the referring physician or his agent in a reasonable time or manner, then the written consent of the parent with custody or of the parent who is available shall be sufficient.

(4) If neither of the parents nor the legal guardian is available to the person performing the abortion or his agent or the referring physician or his agent within a reasonable time or manner, or the parties from whom consent must be obtained pursuant to this section refuse to consent to the performance of an abortion, or the minor elects not to seek consent of those whose consent is required, then the pregnant minor may petition, on her own behalf or by next friend, the district or circuit court of any county of this state for a waiver of the consent requirement of this section pursuant to the procedures of subsection (5) of this section.

(5) The requirements and procedures under this section shall be available and apply to minors whether or not they are residents of this state.

(6) The court shall ensure that the minor or her next friend is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept anonymous.

(7) The minor may participate in proceedings in the court on her own behalf or through next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request.

(8) Court proceedings under this section shall be anonymous and shall be given such precedence over other pending matters as is necessary to ensure that the court may reach a decision promptly, but in no case shall the court fail to rule within forty-eight (48) hours of the time of application, provided that the forty-eight (48) hour limitation may be extended at the request of the minor.

(9) The consent requirement shall be waived if the court finds either:

(a) That the minor is mature and well-informed enough to make the abortion decision on her own; or

(b) That the performance of the abortion would be in the minor's best interest.

(10) A court that conducts proceedings under this section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a confidential record of the evidence be maintained.

(11) An expedited anonymous appeal shall be available to any minor.

(12) The supreme court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(13) No fees shall be required of any minor who avails herself of the procedures provided by this section.

(14) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with Sections 2, 3, or 4 of this Act due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(15) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this Act shall be filed with the cabinet for human resources on a form supplied by the cabinet. This report shall be confidential.

(16) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure

to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

(17) If any provision, word, phrase, or clause of this section or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses, or application of this section which can be given effect without the invalid provision, word, phrase, clause, or application and to this end, the provisions, words, phrases, and clauses of this section are declared to be severable. [~~If a pregnant woman is less than eighteen (18) years of age and not emancipated, or if she has been adjudged an incompetent under KRS Chapter 387, a physician shall not perform an abortion upon her unless he first obtains the consent of both the pregnant woman and that of her parents, if she is less than eighteen (18), or of her guardian, if she is an incompetent, except as hereinafter provided. In deciding whether to grant consent, a pregnant woman's parents or guardian shall consider only the child's or ward's best interests.~~

~~(2) If one of the pregnant woman's parents has died or is unavailable to the physician within a reasonable time and in a reasonable manner, consent of the remaining parent shall be sufficient. If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither a parent nor a legal guardian is available to the physician within a reasonable time and in a reasonable manner, consent of any adult person standing in loco parentis shall be sufficient.~~

~~(3) If one (1) or both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion, or if she elects not to seek the consent of one (1) or both of her parents or guardians, the appropriate circuit court in the county in which the applicant resides or in which the abortion is sought shall upon petition or motion, after an appropriate hearing, authorize a physician to perform the abortion if the court determines that the pregnant woman is sufficiently mature or competent to give informed consent to the proposed abortion.~~

~~(4) If the court determines that the pregnant woman is not sufficiently mature or competent to give informed consent or if the pregnant woman does not claim to be sufficiently mature or competent to give informed consent to the proposed abortion, the court shall determine whether the performance of an abortion would be in her best interests. The court shall not decide until after parental consultation in which the court may participate, if consultation is possible within a reasonable time and in a reasonable manner, unless the court concludes the pregnant woman's best interests would not be served by its participation in the consultation. Whether or not there has been parental consultation, the court shall deny the abortion if it decides that the pregnant woman's best interests would be served by denial, or shall authorize a physician to perform the abortion if it concludes that the pregnant woman's best interests would be served by authorization.~~

~~(5) The pregnant woman may participate in court proceedings on her own behalf, and the court may appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel, and shall, upon her request, appoint counsel.~~

~~(6) Court proceedings under this section shall be confidential and shall be given precedence over other pending matters to ensure a prompt decision to serve the best interests of the pregnant woman. The court shall make specific factual findings and legal conclusions supporting its decision and shall order a record of the evidence to be maintained which shall include its findings and conclusions.~~

~~(7) The requirements of subsection (1) of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician who is to perform the abortion shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by KRS 213.055, and the physician or his agent shall provide each parent or guardian with the following information within seven (7) days of the time the abortion is performed, either in person or by sending it by certified mail to the last known address of each parent or guardian:~~

(a) ~~That an abortion has been performed upon his daughter or ward, and the medical indications for the physician's judgment that a medical emergency exists or existed;~~

~~(b) The name of the physician who performed the abortion or is to perform the abortion; and~~

~~(c) The particular medical risks associated with the particular abortion procedure employed, the symptoms of which might become manifest in the future.~~

~~(8) If the woman elects not to have her parents informed by the physician or his agent as provided in subsection (7) of this section, she shall inform the physician and the physician and his agents shall postpone giving notification until thirty (30) days after the first day in which the woman is, in the medical judgment of the attending physician, medically capable of filing a petition or motion for an order authorizing a physician and his agents to refrain from making the notification required by this section. The appropriate circuit court in the county in which the woman resides or in which the abortion was performed shall, upon petition or motion, after an appropriate hearing, authorize a physician and his agents to refrain from making the notification required by subsection (7) of this section if the court determines that the woman is mature and capable of giving informed consent or if it determines the woman's best interests would not be served by the notification. If the court makes neither determination, it shall issue an order specifying the date by which the physician or his agent shall provide the information prescribed by subsection (7) of this section. If the court does not reach a determination before the time by which the physician and his agents otherwise would be required to make notification, the court shall order that notification be withheld until it rules.~~

~~(9) No filing fees shall be required of any woman availing herself of the procedures provided by this section. An expedited confidential appeal shall be granted any woman to whom the court denies an order authorizing an abortion or an order authorizing a physician and his agents to refrain from making notification required by this section.~~

~~(10) The Supreme Court of Kentucky is respectfully requested, in the exercise of its powers under the Constitution of the Commonwealth, to issue promptly rules necessary to assure that proceedings under this section, and any appeals or other proceedings which may be related to this section, are confidential and prompt. The Supreme Court is further respectfully requested to issue promptly any rules or orders consistent with this chapter necessary to eliminate any undue burdens on a minor's or incompetent's opportunity for an abortion with sufficient expedition.~~

~~(11) Failure to comply with the requirements of this section, other than subsection (10), is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.~~]

Section 2. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony;

(b) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who *intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly, fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor* [~~performs an abortion upon an unemancipated minor or incompetent woman either with knowledge or in reckless disregard of her minority or incompetency and who intentionally, knowingly or recklessly fails to conform to any requirement of KRS 311.732 shall be guilty of a Class D felony~~].

(13) *Any person who negligently releases information or documents which are confidential under this Act is guilty of a Class B misdemeanor.*

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15)[~~(14)~~] Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(16)[~~(15)~~] Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17)[~~(16)~~] Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(18)[~~(17)~~] A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(19)[~~(18)~~] Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(20)[~~(19)~~] Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(21)[~~(20)~~] Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22)[~~(21)~~] Any administrator, officer or employe of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23)[~~(22)~~] Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200).

(24)[~~(23)~~] Any person who violates the provisions of KRS 311.820 is guilty of a Class A misdemeanor.

HB 469, AN ACT relating to medicaid reimbursement of non-steroidal anti-inflammatory drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

All non-steroidal, anti-inflammatory drugs which have been approved by the United States food and drug administration shall be included on the Kentucky medical assistance drug formulary of the cabinet for human resources.

HB 568, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.187 is amended to read as follows:

(1) In any case in which a patient is in need of a cornea or corneal tissue for a transplant, the coroner, medical examiner, or his appropriately qualified designee with training in ophthalmologic techniques may, upon the request of any person authorized under KRS 311.185, provide or authorize the removal of the cornea or corneal tissue by a qualified physician under the following conditions:

(a) The decedent has been defined as a "coroner's case" as set forth by KRS 72.405(2), an autopsy has been ordered pursuant to KRS 72.410, and the cornea or corneal tissue are suitable for transplant;

(b) No objection by the next of kin is known by the coroner or medical examiner; and

(c) The removal of the cornea or corneal tissue will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance.

(2) The medical examiner, coroner, or his appropriately qualified designee or any persons authorized under KRS 311.185 shall not be held liable in any civil or criminal action for failure to obtain consent of the next of kin.

(3) An embalmer, licensed in accordance with KRS Chapter 316 and certified by a department of ophthalmology in an accredited school of medicine as having received competent training, may enucleate eyes for gift after proper certification of death by a physician and in compliance with the provisions of KRS 311.175.

The Committee Amendment No. 1 to HB 568 is as follows:

Amend printed copy of HB 568:

On page 2, lines 4 through 9,

by deleting subsection 3 in its entirety and inserting in lieu thereof the following new subsection:

"*(3) An individual certified by a department of ophthalmology in an accredited school of medicine as having received competent training, may remove corneas for gift after proper certification of death by a physician and in compliance with the provisions of KRS 311.175.*"

Motions, Petitions and Communications (Continued)

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, HB 40; Representative Cline, HR 69; Representative Head, HB 348, HJR 58; Representative Kerr, HB 339; Representative Lear, HR 109; Representative Long, HB 794; Representative Noe, HB 605; Representative Rapier, HB 245; Representative Richards, HR 103; Representative Riner, HB 29; Representative Seum, HB 262, HB 298, HB 348, HB 352, HB 477; Representative Smith, HB 436; Representative Stumbo, HB 709; Representative Williams, HB 87.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 28, 1986.

On the roll call the vote was yeas 80—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stone, Strong, Stumbo, Thomas, Todd, Turner, Worthington, Yates. Nays 5—Guenthner, Holbrook, Long, Overstreet, Williams.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 28, 1986

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Freibert.

Representative B. Richardson moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative B. Richardson moved that the reading of the Journal of February 27, 1986, be dispensed with and the same approved. Agreed.

Introductions of Bills and Resolutions

HB 833, by Representative Meyer: AN ACT relating to the reclassification of cities.

HB 834, by Representatives Napier, Gedling, M. Brown and Ford: AN ACT relating to motor vehicle usage tax.

HR 111, by Representatives Stewart, Reinhardt, Riner, Bendl, Jensen, Hines, Burnette, Bronger, Seum, Curd, Preston, Richards, M. Brown, Ellington, Rose, Bennett, Lyne, Arnold, Johnson, Dawahare, Mack, Todd, Heleringer, Turner, Siler, Noland, Lefevers, J. Harper, Keith, White, Gregory, Cline and F. Brown: A RESOLUTION designating that the Saturday before Memorial Day be recognized as Poppy Day throughout the State of Kentucky.

Senate Message

Announcing passage of SB 38, SB 214, SB 242, SB 244, SB 251, SB 255, SB 264, SB 265, SB 284, SB 302, SB 303, SB 304, SB 312, SB 313, HB 346 with Senate Amendment, HB 52, HB 163 and HCR 6.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 797.

Appropriations and Revenue: HB 790, HB 792, HJR 106, HB 825.

Banking and Insurance: HB 799, HB 795.

Business Organizations and Professions: HB 794, HB 791, HB 808.

Counties and Special Districts: HB 788.

Education: HB 796.

Health and Welfare: HB 787.

Judiciary-Civil: HB 800, HB 802.

Natural Resources and Environment: HB 798, HB 804.

State Government: HB 793, HB 803, HJR 107, SJR 44.

Transportation: HB 786, HB 801.

Report of Committees

The Committee on Rules reported HB 28, HB 499, HB 585, HB 631, HB 633, HB 700, SB 155, HB 453, HB 490 and HB 628 have been posted for passage in Orders of the Day, March 3, 1986.

The Committee on Rules reported the following bill has been recommitted:

Appropriations and Revenue: HB 374.

The Committee on Health and Welfare reported HB 639, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 639, AN ACT relating to children and programs relating thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources.

(2) "Cabinet" means the cabinet for human resources.

(3) "Department" means the department for social services.

(4) "Child" means any person who has not reached his eighteenth birthday.

(5) "Dependent child" means any child who is under improper care, control, or guardianship that is not due to the negligence of the parent or guardian, provided that the child is not an abused or neglected child.

(6) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person who has the permanent or temporary care, custody or responsibility for the supervision of the child: inflicts or allows to be inflicted upon the child, physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse upon the child, *including sexual exploitation*; willfully abandons or exploits such child; does not provide the child with adequate care and supervision; food, clothing and shelter; education; or medical care necessary for the child's well-being; provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This exception, however, shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(7) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(8) "Child-placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption.

(9) "Child welfare worker" means an employe of the cabinet designated as such by the secretary for human resources or social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, services to children.

(10) [~~"Boarding home or foster parent" as used in subsection (5) of KRS 199.603 means persons who board children held in custody by the cabinet.~~

~~(11)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency.

(11)[~~(12)~~] "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(12)[~~(13)~~] "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children.

(13)[~~(14)~~] "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons.

Section 2. KRS 199.335 is amended to read as follows:

(1) The purpose of this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports.

(2) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report to be made in accordance with the provisions of this section. Nothing in this section is intended to relieve individuals, agencies or organizations of their obligation to report.

(3) A report shall be made immediately by telephone or otherwise to the department or its delegated representative. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency. If the report is made to any agency other than the department, such agency shall promptly refer the report to the department. The report shall be followed by a written report within forty-eight (48) hours if so requested by the department. The department or its delegated representative shall upon the receipt of the initial report immediately send a report of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such report shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's abuse or neglect (including any evidence of previous abuse or neglect) to this child or his siblings; the name and address of the person responsible for the abuse or neglect; and any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section. The department may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the department to fulfill its responsibilities under this section.

(4) A search warrant shall be issued upon a showing of probable cause that a child is being abused or neglected. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

(5) In a proceeding before the juvenile session of district court to have a child removed from his home and placed in the custody of the department or the court, substantial evidence that the child is an abused or neglected child shall make a prima facie case for removal of the child even though it is not proved conclusively who has perpetrated the abuse or who has caused the neglect.

(6) Anyone acting upon reasonable cause in the making of a report pursuant to this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 shall have

immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report.

(7) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section.

(8) Upon receipt of a report of an abused or neglected child pursuant to this section, the department as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child, preventing further abuse or neglect of the child or any other child under the same care, preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(9) All information obtained by the departmental staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to any one except:

(a) Persons suspected of neglect or abuse, provided that in such cases names of informants may be withheld, unless ordered by the court;

(b) Persons within the department with a legitimate interest or responsibility related to the case;

(c) Other medical, psychological, *educational,* or social service agencies, or law enforcement agencies that have a legitimate interest in the case; and

(d) Cases where a court orders release of such information.

(10) As a result of any report of suspected child abuse or neglect as defined in KRS 199.011(6) photographs and x-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person responsible for the child, as a part of the medical evaluation or investigation of such reports. Such photographs and x-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person taking such photographs or x-rays shall be immune from criminal or civil liability.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) A petition for involuntary termination of parental rights may be filed in the circuit court for any of the counties in the following order of priority:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; and

(c) The county in which the child involved resides or is present.

(2) Proceedings for involuntary termination of parental rights may be instituted upon petition by the cabinet, any child-placing agency licensed by the cabinet, any probation officer, any state or local law enforcement officer, or any county or commonwealth attorney or parent.

(3) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and identity of each petitioner;

(b) Name, sex and date of birth of the child or children;

(c) Name and address of the living parents of the child;

(d) Name and date of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of person or agency having court ordered custody of the child;

(g) Name and identity of the person or authorized agency to whom custody is sought to be transferred;

(h) Statement that the agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(4) No petition may be filed under this section prior to five (5) days after the birth of the child.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) In any action for involuntary termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky rules of civil procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and has been filed with the petition for termination of parental rights, or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

In any involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic record shall be made of the proceedings. The court will make findings of fact and conclusions of law to support its judgment;

(2) Any child to whom the action directly relates shall be made a party defendant to the action and a guardian ad litem shall be an advocate to represent the best interest of the child. The guardian ad litem shall be paid a fee for his services not to exceed five hundred dollars ($500) which shall be taxed as cost. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interest of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview shall be made, which, in the discretion of the court, may be sealed to be used only by an appellate court.

(3) The defendant parents have the right to legal representation. If the court finds that a parent who is a defendant in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if said parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the defendant, if notification is possible, of his right to counsel. Upon request or if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the defendant. The attorney shall be paid a reasonable fee for his services which shall be taxed as cost but not to exceed five hundred dollars ($500).

(4) The circuit court may be convened at any time wherever the judge thereof may be found within the circuit, respective of the regular term for the purpose of terminating parental rights and the proceedings shall be expedited and completed as soon as practicable.

(5) Notwithstanding the provisions of Civil Rule 4.04(2), the boarding home or foster parent shall not be served with summons on behalf of the child.

(6) If the parental rights of all living parents of the child are terminated, the circuit court shall declare the child to be a ward of the state, and vest the care, custody and control of the child in the cabinet, or in any licensed child-caring or child-placing agency or institution. If the child has a parent or parents whose rights have not been terminated by the proceedings, the child shall not be declared a ward of the state, unless the

voluntary consent of the other parent or parents has been obtained or unless in the same proceeding the circuit court shall find that the other parent has filed a disclaimer of paternity or has waived his rights under KRS 199.601.

SECTION 6. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court may involuntarily terminate all parental rights of a parent of a child, if the circuit court finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused and neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child; provided, however, that no termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider all relevant factors including:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing or child-caring agency, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The effort the parent has made to adjust his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

Section 7. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged mentally disabled and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.601 to 199.617; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated *by an order of the court of competent jurisdiction* [~~under KRS 199.603~~] and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the *grounds for termination of parental rights provided for in Section 6 of this Act have been pleaded and proved* [~~provisions of subsections (1) or (4) of KRS 199.603 exist with respect to such child~~].

(5) In no case shall an adoption be granted or a consent for adoption be held valid if such consent for adoption is given prior to the fifth day after the birth of the child.

Section 8. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The general assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for human resources may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) The cabinet for human resources shall provide medical assistance to eligible children in foster care committed to the custody or guardianship of the cabinet until such children reach the age of twenty-one (21) so long as the providing of such medical care is consistent with federal regulations and when such individuals remain in foster care beyond their eighteenth birthday for the limited purpose of making state and federal educational programs available to them.

(5) It is the intention of the general assembly to comply with the provisions of title XIX of the social security act which require that the Kentucky medical assistance program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky medical assistance program.

(6)[~~(5)~~] The Kentucky medical assistance program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

SECTION 9. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

By order of the district court and with the agreement of the foster child and the cabinet, the commitment or placement of a foster child may continue until the foster child attains the age of twenty-one (21) but only for the limited purpose of making state and federal educational programs available to the child.

Section 10. KRS 208.200 is amended to read as follows:

(1) If in its decree the juvenile session of district court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation or supervision shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation and supervision methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation or supervision shall remain subject to the jurisdiction of the court until he becomes eighteen (18) years of age, *unless at the time of placement, he is seventeen (17) years and six (6) months old or older in which case, his placement may be for a period of up to one (1) year,* unless he is discharged prior thereto by the court; provided, however, that a child so placed on probation or supervision may remain subject to the jurisdiction of the court until the age of nineteen (19) for the limited purpose of making state and federal educational programs available to him, if after reaching the age of eighteen (18) he indicates to the judge of the juvenile session of district court in open court that he so desires.

(b) Commit the child to the custody or guardianship of the cabinet or of a private institution or public agency authorized to care for such children, or place the child under the custody and the supervision of a suitable person. All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Such commitment or placement shall be until the age of eighteen (18) *except that if the commitment or placement occurs when the child is seventeen (17) years and six (6) months old or older, the placement or commitment may be for a period not to exceed one (1) year,* subject to the power of the court to terminate the order and discharge the child prior thereto except that the commitment or placement may be until the age of nineteen (19) if the child after reaching the age of eighteen (18) indicates to the judge of the juvenile session of district court in open court that he so desires. The extension of the commitment or placement beyond the age of eighteen (18) to age nineteen (19) shall be for the limited purpose of making state and federal educational programs available to the child. The governing authorities of said cabinet, agency or institution may likewise discharge the child unless the court directs otherwise. Prior to said discharge two weeks' notice must be given to the committing court, to the legal representative of the child and to the county attorney of the county in which committing court presides. During the period of commitment or placement, the court may review a dispositional order and may modify or terminate such order as the court deems essential to the best interests of the child. In committing a child to a private institution or agency the court shall select one that is approved by the cabinet for human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

(2) In the event a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment the court shall have exclusive, original jurisdiction of the new offense.

(3) After a child has been disposed of as provided in paragraph (a) or (b) of subsection (1) of this section he may not then be transferred to the circuit court as provided for in KRS 208.170.

(4) If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

(b) The court may impose a fine for a misdemeanor or violation offense. The imposition of a fine for a misdemeanor or violation offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine.

(c) Fines shall be levied consistent with the schedule set forth below:

For a Class A misdemeanor, not to exceed one hundred fifty dollars ($150);

For a Class B misdemeanor, not to exceed seventy-five dollars ($75); and

For a violation, not to exceed fifty dollars ($50).

When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately.

(5) When a child has been ordered to comply with the provisions in subsection (4) above and fails to do so, the court upon motion of the prosecuting attorney or upon its own motion may require the child to show cause why he should not be held in detention for noncompliance with the court order. The court may issue an order of custody or a summons for his appearance.

(6) Following issuance of a show cause order pursuant to subsection (5) of this section, unless the child can show that noncompliance was not the result of an intentional refusal to comply with the court order or not the result of a failure to make a good faith effort to comply with the court order, the court may order the child detained as follows:

(a) For a period not to exceed five (5) days if the order is imposed for the commission of a Class A misdemeanor;

(b) For a period not to exceed three (3) days if the order is imposed for the commission of a Class B misdemeanor;

(c) For a period not to exceed two (2) days if the order is imposed for the commission of a violation.

Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational obligations of the child, and shall be in an approved detention facility as provided in KRS 208.130.

(7) When in the judgment of the court a disposition stated above in subsection (4) is inadequate to aid in the rehabilitation of a misdemeanor offender, the court in its discretion may order a child sixteen (16) years of age or older who has been adjudicated delinquent in the commission of an offense classified as a misdemeanor to detention in an approved detention facility as provided in KRS 208.130 based upon the schedule set forth below:

Class A misdemeanor, one (1) to thirty (30) days;

Class B misdemeanor, one (1) to fifteen (15) days;

provided, that, the court shall advise the child prior to entering its order under this subsection that the child upon demand may receive a trial by jury in the regular session of district court, which trial and any appeal therefrom shall be conducted in accordance with the Rules of Criminal Procedure.

The detention of a juvenile misdemeanor offender shall not be scheduled to interfere with the educational obligations of the child. Detention may be scheduled during periods such as weekends, after school, or overnight. Any portion of a day spent in detention shall be deemed as one day for the purposes of serving a detention term.

(8) No adjudication by a juvenile session of district court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 11. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.050(1) shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the cabinet for human resources. Testing and the recording of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the cabinet for human resources or his designee; provided that, positive results of tests for inborn errors of metabolism as set forth in regulation by the secretary shall be reported to the department for health services no later than two (2) *working days* [~~weeks~~] after the date of testing. The secretary of the cabinet for human resources shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

Section 12. The following KRS sections are repealed:

199.603 Involuntary termination of parental rights of parent of dependent, neglected or abused child.

199.609 Proceedings to terminate parental rights to be in circuit court—Contents of petition for involuntary termination.

The Committee Amendment No. 1 to HB 639 is as follows:

Amend printed copy of HB 639:

On page 2, line 16 by inserting after subsection "(7)":

"Sexual exploitation" means a situation which includes, but is not limited to, that where the person who is the parent, guardian or other person having permanent or temporary care, custody or responsibility for a child or for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution, as provided for by the Kentucky Revised Statutes; or a person who is the parent, guardian or other person having permanent or temporary care, custody or responsibility for a child or for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child, as provided for by the Kentucky Revised Statutes.

And by renumbering the remaining subsections to conform

The Committee Amendment No. 2 to HB 639 is as follows:

Amend printed copy of HB 639:

On page 17, line 23,

by deleting the number "*6*" following the word "*Section*" and inserting in lieu thereof, the number "*11*".

The Committee Amendment No. 3 to HB 639 is as follows:

Amend printed copy of HB 639:

On page 9, line 1,

by deleting sections 3, 4, 5 and 6 in their entirety and inserting in lieu thereof the following:

SECTION 3. KRS CHAPTER 625 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to this culture, which injury may be directly attributable to the failure, refusal or incapacity of the parent or other person responsible for the supervision of the child to exercise a minimum degree of parental care and supervision toward the child. Emotional abuse or neglect shall constitute, but not be limited to, situations in which a child's mental, emotional or physical health is damaged as evidenced by severe anxiety, depression or withdrawal.

SECTION 4. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

The circuit court shall have jurisdiction of proceedings under this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit; or

(b) Prior to the entry of a final order in any of the above proceedings, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child; or

(c) He has caused his name to be affixed to the birth certificate of the child; or

(d) He has commenced a judicial proceeding claiming parental right; or

(e) He has contributed financially to the support of the child either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or has or is openly living with the child or the person designated on the birth certificate as the natural mother of said child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

SECTION 6. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ________, a child." The petition may be filed by a parent.

(2) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

(3) The petition for the voluntary termination of parental rights under this section may be filed in any circuit court in any county and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex and date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child.

(4) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing. The circuit court shall require notice to be served upon the cabinet in any case where a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency.

(5) All hearings shall be held before the circuit court, privately for the purpose of determining the facts.

(6) The best interest of the child shall be considered paramount.

(7) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of __________, a child." The petition may be filed in the circuit court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(2) Proceedings for involuntary termination of parental rights may be instituted upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or commonwealth attorney or parent.

(3) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and identity of each petitioner;

(b) Name, sex and date of birth of the child or children;

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of person or agency having custody of the child;

(g) Name and identity of the person or authorized agency to whom custody is sought to be transferred;

(h) Statement that the agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(4) No petition may be filed under this section prior to five (5) days after the birth of the child.

SECTION 8. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the child, the following shall be the parties in an action for termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated.

(2) Any party who is not the petitioner shall be a defendant.

SECTION 9. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) In any action for termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky rules of civil procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and has been filed with the petition for termination of parental rights, or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

SECTION 10. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

In any voluntary or involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic record shall be made of the proceedings. The court will make findings of fact and conclusions of law to support its judgment.

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed as to represent the best interest of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by the cabinet. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interest of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview will be made, which, in the discretion of the court, may be sealed to be used only by an appellate court.

(3) The parents have the right to legal representation. If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if said parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the parent, if notification is possible, of his right to counsel. Upon request or if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided by, or paid for, by the department of public advocacy.

(4) The circuit court may be convened at any time wherever the judge thereof may be found within the circuit, respective of the regular term for the purpose of terminating parental rights and the proceedings shall be expedited and completed as soon as practicable.

(5) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, the boarding home or foster parent shall not be served with summons on behalf of the child.

(6) If the parental rights of all living parents of the child are terminated, the circuit court shall declare the child to be a ward of the state, and vest the care, custody and control of the child in the cabinet, or in any licensed child-caring or child-placing agency or institution. If the child has a parent or parents whose rights have not been terminated by the proceedings, the child shall not be declared a ward of the state, unless the

voluntary consent of the other parent or parents has been obtained or unless in the same proceeding the circuit court shall find that the other parent has filed a disclaimer of paternity or has voluntary petitioned the court to terminate his parental rights.

SECTION 11. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court may involuntarily terminate all parental rights of a parent of a child, if the circuit court finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused and neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child; provided, however, that no termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider all relevant factors including:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing or child-caring agency, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The effort the parent has made to adjust his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

SECTION 12. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) If the circuit court determines that all parties with parental rights to the child under the law have either petitioned the court to have their parental rights terminated voluntarily or have had their rights terminated involuntarily by an order entered by a court of competent jurisdiction, and that the termination of parental rights and their transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter, it shall make an order terminating all parental rights and obligations in the parent in whom they have existed, and releasing the child from all legal obligations to his parents, and transferring such custody to some other person or authorized agency or cabinet as may, in the opinion of the court, be best qualified to receive custody, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the cabinet, or authorized agency to consent to the adoption of such child.

(2) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(3) Where parental rights have been terminated pursuant to this section all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted.

(4) The files and records of the circuit court during proceedings for termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court; provided, that the representatives of the cabinet shall have access to the papers and records of the case without a written order of the court. No person having charge of any termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, this provision is not meant to prohibit the disclosure of facts necessary in order for a person to secure a court order for a copy of the termination order to be used in an adoption proceeding. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

SECTION 13. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the circuit court involuntarily terminating parental rights in accordance with the Kentucky rules of civil procedure and Kentucky Supreme Court rules.

(2) Any order entered as a result of the voluntary termination of parental rights shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination.

SECTION 14. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate regulations to implement the provisions of this Act.

And by renumbering the remaining Sections to conform.

The Committee Amendment No. 4 to HB 639 is as follows:

Amend printed copy of Committee Amendment No. 3 to HB 639:

On page 9, line 1,

by deleting sections 3, 4, 5 and 6 in their entirety and inserting in lieu thereof the following:

SECTION 3. KRS CHAPTER 625 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to this culture, which injury may be directly attributable to the failure, refusal or incapacity of the parent or other person responsible for the supervision of the child to exercise a minimum degree of parental care and supervision toward the child. Emotional abuse or neglect shall constitute, but not be limited to, situations in which a child's mental, emotional or physical health is damaged as evidenced by severe anxiety, depression or withdrawal.

SECTION 4. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

The circuit court shall have jurisdiction of proceedings under this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit; or

(b) Prior to the entry of a final order in any of the above proceedings, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child; or

(c) He has caused his name to be affixed to the birth certificate of the child; or

(d) He has commenced a judicial proceeding claiming parental right; or

(e) He has contributed financially to the support of the child either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or has or is openly living with the child or the person designated on the birth certificate as the natural mother of said child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

SECTION 6. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ____________, a child." The petition may be filed by a parent.

(2) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

(3) The petition for the voluntary termination of parental rights under this section may be filed in any circuit court in any county and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex and date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child.

(4) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing. The circuit court shall require notice to be served upon the cabinet in any case where a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency.

(5) All hearings shall be held before the circuit court, privately for the purpose of determining the facts.

(6) The best interest of the child shall be considered paramount.

(7) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ________, a child." The petition may be filed in the circuit court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(2) Proceedings for involuntary termination of parental rights may be instituted upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or commonwealth attorney or parent.

(3) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and identity of each petitioner;

(b) Name, sex and date of birth of the child or children;

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of person or agency having custody of the child;

(g) Name and identity of the person or authorized agency to whom custody is sought to be transferred;

(h) Statement that the agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(4) No petition may be filed under this section prior to five (5) days after the birth of the child.

SECTION 8. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the child, the following shall be the parties in an action for termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated.

(2) Any party who is not the petitioner shall be a defendant.

SECTION 9. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) In any action for termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky rules of civil procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and has been filed with the petition for termination of parental rights, or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

SECTION 10. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

In any voluntary or involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic record shall be made of the proceedings. The court will make findings of fact and conclusions of law to support its judgment in actions not tried by a jury.

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed as to represent the best interest of the child. The person appointed as a guardian ad litem shall be paid a reasonable fee as shall be determined by the court, to be paid by the cabinet. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interest of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview will be made, which, in the discretion of the court, may be sealed to be used only by an appellate court.

(3) The parents have the right to a trial by jury upon demand and to legal representation. If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if said parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the parent, if notification is possible, of his right to counsel. Upon request or if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided by, or paid for, by the department of public advocacy.

(4) The circuit court may be convened at any time wherever the judge thereof may be found within the circuit, respective of the regular term for the purpose of terminating parental rights and the proceedings shall be expedited and completed as soon as practicable, subject to the right to a jury trial upon demand.

(5) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, the boarding home or foster parent shall not be served with summons on behalf of the child.

(6) If the parental rights of all living parents of the child are terminated, the circuit court shall declare the child to be a ward of the state, and vest the care, custody and control of the child in the cabinet, or in any licensed child-caring or child-placing agency or institution. If the child has a parent or parents whose rights

have not been terminated by the proceedings, the child shall not be declared a ward of the state, unless the voluntary consent of the other parent or parents has been obtained or unless in the same proceeding the circuit court shall find that the other parent has filed a disclaimer of paternity or has voluntary petitioned the court to terminate his parental rights.

SECTION 11. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court may involuntarily terminate all parental rights of a parent of a child, if the circuit court (or a jury thereof in actions tried by a jury) finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused and neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child; provided, however, that no termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty or religious belief alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider all relevant factors including:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing or child-caring agency, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The effort the parent has made to adjust his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

SECTION 12. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) If the circuit court determines that all parties with parental rights to the child under the law have either petitioned the court to have their parental rights terminated voluntarily or have had their rights terminated involuntarily by an order entered by a court of competent jurisdiction, and that the termination of parental rights and their transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter, it shall make an order terminating all parental rights and obligations in the parent in whom they have existed, and releasing the child from all legal obligations to his parents, and transferring such custody to some other person or authorized agency or cabinet as may, in the opinion of the court, be best qualified to receive custody, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the cabinet, or authorized agency to consent to the adoption of such child.

(2) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(3) Where parental rights have been terminated pursuant to this section all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted.

(4) The files and records of the circuit court during proceedings for termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court; provided, that the representatives of the cabinet shall have access to the papers and records of the case without a written order of the court. No person having charge of any termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, this provision is not meant to prohibit the disclosure of facts necessary in order for a person to secure a court order for a copy of the termination order to be used in an adoption proceeding. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

SECTION 13. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the circuit court involuntarily terminating parental rights in accordance with the Kentucky rules of civil procedure and Kentucky Supreme Court rules.

(2) Any order entered as a result of the voluntary termination of parental rights shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination.

SECTION 14. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate regulations to implement the provisions of this Act.

And by renumbering the remaining Sections to conform.

The Committee Amendment No. 5 to HB 639 is as follows:

Amend printed copy of HB 639:

On page 2,

On line 11,

By inserting after the word "specified" the words "*education or*"

On line 17,

By inserting after the word "facility" the words "*or one operated by a church*"

On page 4, on line 25,

By inserting after the word "report" the following:

"*; nothing in this section shall be construed to require reporting from or any clergyman of a church or religious ministry regarding information acquired in the course of such person's professional duties in a counseling or pastoral capacity*"

On page 8,

On line 6,

By inserting after the word "abuse" the words "*or their attorneys*"

On line 11,

By inserting after the word "*educational,*" the word "*religious,*"

The Committee on State Government reported SB 54, SB 55, SB 56, SB 58, SB 59, SB 105 and SB 106 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 54, AN ACT relating to the reorganization of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in KRS 148.260 to 148.320 the term "commission" shall mean the "Kentucky horse park commission" unless the context clearly indicates otherwise.

Section 2. KRS 148.260 is amended to read as follows:

(1) There is hereby created and established an agency of state government to be known as the Kentucky horse park commission which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the tourism cabinet for administrative purposes.

(2) The commission shall be composed of nine (9) members who possess the ability to provide broad management expertise and direction in the operation of the Kentucky horse park and shall, to the extent possible, represent the diverse interest of the Kentucky horse industry. Of these, seven (7) members shall be appointed by the governor. Two (2) of these appointed members of the commission shall represent the equine industry; and two (2) members shall be active in industry and commerce. The secretary of the commerce cabinet and the secretary of the tourism cabinet shall serve as ex officio members with full voting rights. Any vacancy on the commission shall be filled by the governor for the unexpired term.

(3) The appointed members of the commission shall hold their offices for a term of four (4) years, except that

for the initial appointment to the commission, two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and three (3) members shall serve a term of four (4) years.

(4) The commission shall meet quarterly and shall be headed by a chairman appointed by the governor. The chairman shall preside over the commission meetings. The chairman may call special meetings of the commission upon a request of the majority of the members of the commission.

(5) Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the finance and administration cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky horse park.

(6) The commission shall establish and maintain an office at the Kentucky state horse park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.

(7) The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of five (5) members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

(8) The governor may establish an advisory committee to advise in the administration, development and operation of the horse park or other functions, activities, and programs provided for or authorized by this Act.

[~~(1) The state horse park management board is hereby established, is attached to the tourism cabinet and shall consist of seven (7) members appointed by the governor, who shall also designate its chairman. Members shall serve terms of four (4) years, or until their successors are appointed, except that the initial terms of membership shall be staggered as follows:~~

~~(a) One (1) member shall serve a term of one (1) year;~~

~~(b) Two (2) members shall serve a two (2) year term;~~

~~(c) Two (2) members shall serve a three (3) year term; and~~

~~(d) Two (2) members shall serve four (4) year terms.~~

~~(2) The management board shall be authorized to adopt bylaws providing for the call of its meetings and its operating procedures. A quorum of the board shall consist of four (4) members, and a majority of members present at any duly-called meeting may act upon any matter before it for consideration. Full minutes and records shall be maintained of all meetings and official actions of the board, and shall be subject to the Kentucky open records and open meetings acts. Members of the board shall be reimbursed for their expenses in attending meetings subject to department of finance regulation, and shall receive sixty-five dollars ($65.00) per diem for attending such meetings.~~]

Section 3. KRS 148.270 is amended to read as follows:

(1) The *commission* [~~state horse park management board~~] shall be a body corporate with usual corporate powers. Full minutes and records shall be kept of all meetings of the board and all official actions shall be recorded.

(2) The *commission* [~~state horse park management board~~] shall appoint an executive director [~~and a secretary~~], who shall hold office during its pleasure and shall devote *his* [~~their~~] entire time to the duties of *his office* [~~their offices~~]. The executive director shall be the chief administrative officer *and secretary* [~~of the office~~] of the *commission* [~~board~~] and shall provide the staff direction and coordination in implementing the program and discharging the duties of the *commission* [~~board~~]. *The executive director shall serve as the administrative head of the Kentucky state horse park, thereby overseeing daily operations of the park.* The secretary shall keep a full and true record of all the proceedings of the *commission* [~~board~~], of all books and papers ordered filed by the *commission* [~~board~~], and of all orders made by the *commission* [~~board~~] or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office. All documents shall be subject to the open records provisions of KRS 61.870 to 61.884.

(a) The *commission* [~~board~~] shall designate from time to time staff persons to perform the duties of the executive director [~~and secretary~~] during *his* [~~their~~] absence, and during the absence [~~of either~~], the persons so designated shall possess the same powers as their principal.

[~~(b) The executive director with the approval of the board may assign the secretary additional administrative duties.~~]

(3) The *commission* [~~board~~] acting through the executive director may employ such additional staff as necessary to perform the duties and exercise the powers conferred upon it by the provisions of KRS 148.260 to 148.320.

Section 4. KRS 148.280 is amended to read as follows:

(1) The *commission* [~~state horse park management board~~]:

(a) Shall have the authority and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purpose mentioned in this section;

(b) May erect and repair buildings on the state horse park and make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section;

(c) Shall promote the progress of the state and stimulate public interest in the advancement and development of the state by providing the facilities of the state horse park for exhibitionary, competitive and other events relative to various aspects of the horse industry and other functions calculated to advance and enhance the tourist industry, economy, entertainment, cultural, and educational interests of the public.

(2) The *commission* [~~state horse park management board~~] may take, acquire and hold property, and all interest herein, by deed, gift, devise, bequest, lease, or by transfer from the state property so acquired in the manner provided by law.

(3) The *commission* [~~state horse park management board~~] is authorized to enact by administrative regulation as provided in KRS Chapter 13A, rules governing the operation, maintenance or use of property under its custody and control.

(4) The *commission* [~~state horse park management board~~] may employ or contract such other person, firms or corporations as the *commission* [~~board~~] may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them such duties and responsibilities as the *commission* [~~board~~] may determine, including the responsibility of actual operation of any or all of the facilities under the control of the said *commission* [~~board~~].

(5) The department of parks shall assume responsibility for the routine, nonpolicy making administration of the Kentucky horse park, which responsibility includes though is not limited to preparation and coordination of purchases, establishment and maintenance of a budgetary and accounting system, and retention and maintenance of all personnel and payroll documents. The cost for these services shall be charged, by means of inter-account.

Section 5. KRS 148.290 is amended to read as follows:

(1) The *commission* [~~state horse park management board~~] may enter into agreements with the chief of the law enforcement agency of any urban county or counties in which the state horse park is located or in any adjacent county for proper policing of the state horse park, and may arrange with the state for the policing of the state horse park by the state police. The *commission* [~~board~~] may also apply for the appointment of special law enforcement officers to provide security subject to the procedures of KRS 61.900 to 61.930.

(2) The *commission* [~~state horse park management board~~] is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

Section 6. KRS 148.300 is amended to read as follows:

(1) The *commission* [~~state horse park management board~~] shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place on the state horse park grounds, and may under the direction of the *commission* [~~board~~] operate any or all of such activities, by law.

(2) The *commission* [~~board~~] shall have a prior lien upon the property of any concessionaire, exhibitor or person, immediately upon its coming or being brought on the grounds to secure existing or future indebtedness.

(3) Any designated employe or agent of the *commission* [~~state board~~] may sell the property to satisfy the indebtedness after giving ten (10) days' notice to the owner or agent of the owner or, if notice cannot be given to the owner, after a notice is posted for ten (10) days in the office of the *commission* [~~state board~~] on the grounds, announcing that the property is to be sold. The *commission* [~~state board~~] through its designated agent, may bid on and buy the property offered for sale for the use and benefit of the state horse park.

Section 7. KRS 148.310 is amended to read as follows:

None of the provisions of KRS Chapter 137 and none of the provisions of KRS 92.280(2) shall apply to any operations on state horse park grounds wherein the *commission* [~~state horse park management board~~] shares in the receipts and proceeds of such operations.

Section 8. KRS 148.320 is amended to read as follows:

(1) All revenues derived by the *commission* [~~state horse park management board~~] from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the *commission* [~~board~~], the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the *commission* [~~board~~] for such properties and facilities, the creation of adequate reserves for the repair and replacement thereof and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the *commission* [~~state horse park management board~~] may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the state horse park.

(2) The *commission* [~~state horse park management board~~] shall generally cause its funds to be deposited in the state treasurer's office to be withdrawn on appropriate vouchers approved by the *commission* [~~board~~].

(3) An annual accounting of the funds of the *commission* [~~state board~~] shall be made by the auditor of public accounts and reported to the governor for the benefit of the governor and the general assembly.

SECTION 9. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The commission shall:

(1) Formulate policies and procedures as necessary to carry out the provisions of this Act;

(2) Promulgate rules and regulations as necessary to carry out the provisions of this Act;

(3) Annually provide the governor a report by January 30 and provide the general assembly a report by January 30 showing the status of the horse industry within the Commonwealth and recommend any action necessary to preserve and strengthen that industry; and

(4) Employ staff personnel, if any, as it may deem necessary to implement the business of the commission and the intent of this Act. The commission shall fix the compensation of such employes and any employe of the commission shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the commission.

Section 10. The following KRS sections are repealed:

154.410 Kentucky horse council created—Membership—Meetings—Funds.

154.420 Duties of council.

230.510 Kentucky horse council established — Membership — Officers — Oath — Offices — Meetings — Compensation.

230.520 Duties.

Section 11. The General Assembly confirms the reorganization of the Kentucky Horse Park by Executive Order 85-32, issued on January 14, 1985, to the extent that Executive Order 85-32 is not otherwise confirmed by this Act. Such confirmation shall include the following:

1. Transferring all functions, rights, responsibilities, personnel, records and funds of the Kentucky Horse Council and the State Horse Park Management Board to the commission;

2. Requiring the Secretary of the Finance and Administration Cabinet, the Secretary of the Tourism Cabinet, and the Commissioner of the Department of Personnel to take appropriate steps to effectuate the provisions of this Act.

SB 55, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Reorganization Order 84-1048, which creates a Division of Hearings in the Natural Resources and Environmental Protection Cabinet.

SB 56, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby ratifies Executive Order 84-1055 relating to the reorganization of the office of general counsel of the natural resources and environmental protection cabinet in which the division of legal affairs is abolished and its functions assigned to the office of general counsel.

SB 58, AN ACT relating to the reorganization of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.020 is amended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of economic development, which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.141, shall be organized into [~~a division of community development,~~] a division of research and planning, a division of minority business, a division of small business assistance, a division of industrial development, a business information clearinghouse and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of economic development. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the commerce cabinet and the secretary of the finance and administration cabinet, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The division of research and planning, the division of minority business, the division of small business assistance and the division of industrial development shall each be headed by directors appointed pursuant to KRS 12.050.

(5) [~~The division of community development shall be headed by a director appointed pursuant to KRS 12.050. The division shall be responsible for community assistance and revitalization.~~

~~(6)~~] The office of administrative services shall be headed by an executive director appointed by the secretary, with the approval of the governor, pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the office of the secretary of the commerce cabinet.

(6)[~~(7)~~] The business information clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.

Section 2. The general assembly confirms the reorganization of the Department of Economic Development by Executive Order 84-996, issued on November 12, 1984, to the extent it is not otherwise confirmed by this Act.

SB 59, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Order 84-598, reorganizing the Justice Cabinet, Department of State Police as follows:

(1) Creating an Administrative Division, headed by a director appointed pursuant to KRS 12.050, which shall be responsible for those functional program areas in the department of state police that are primarily administrative in nature.

(2) Creating an Operations Division, headed by a director appointed pursuant to KRS 12.050, which shall be responsible for those functional program areas in the department that are primarily operational in nature.

(3) Creating a Services Division, headed by a director appointed pursuant to KRS 12.050 which shall be responsible for the direction of those program areas of the department that provide support services to the department and other law enforcement agencies in Kentucky.

(4) Renames the Professional Standards Division the Administrative Division.

(5) Abolishes the Special Investigations Division and transfers its functions to a newly created special investigations branch in the Operations Division.

(6) Renames the Support Services Division, the Services Division.

(7) Abolishes the Records and Communications Division and transfers its function to the Office of the Commissioner.

SB 105, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.320 is amended to read as follows:

(1) The governor shall appoint a parole board consisting of *seven (7)* [~~five (5)~~] members, one (1) of whom he shall name as chairman of the board. He shall make each appointment from a list of three (3) names given to him by the commission on correction and community service. Each member appointed to the board must have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine or a combination thereof, or have served at least five (5) years previously on the parole board. No more than *four (4)* [~~three (3)~~] board members may be of the same political party. The board shall be attached to the corrections cabinet for administrative purposes only; the corrections cabinet shall provide such clerical, stenographic, administrative and expert staff assistance as the board deems necessary to carry out its duties.

(2) *The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational and personnel matters of the board* [~~The office of executive director of the parole board is hereby created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary in matters relating to administration, and directly responsible to the chairman of the board in matters relating to policy. The office shall be responsible for providing support services in the areas of financial, personnel, and facilities management to the operating offices of the board, conducting studies for decision-making needs of the board, and serving as liaison between the cabinet and the board. The executive director shall be responsible for drafting all regulations and directives necessary to implement the policies of the board.~~

~~(3) The administrative duties of the chairman of the board are transferred to the executive director~~].

(3)[~~(4)~~] The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their term of office shall be four (4) years and until their successors are appointed and have qualified[~~, except that the first appointments shall be for terms of two (2) years for two (2) members, and four (4) years for three (3) members~~]. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term the governor may name a successor to serve for the remainder of the unexpired term.

(4) Four (4) [~~(5) Three (3)~~] members of the board shall constitute a quorum. The organization of the board shall be determined by the chairman.

(5)[~~(6)~~] The governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before such removal he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6)[~~(7)~~] Present members of the board shall be deemed to have vacated their appointment and successors shall be appointed as provided in subsection *(3) of this section* [~~(4)~~]. The governor may reappoint present members if they meet the qualifications set forth in subsection (1) *of this section.*

Section 2. The General Assembly confirms the reorganization of the Parole Board by Executive Order 85-795 issued on October 10, 1985, to the extent that it is not otherwise confirmed by this Act.

SB 106, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly confirms Executive Order 84-666 designating the office of the secretary of the education and humanities cabinet as the public agency to conduct the client assistance program under provisions of the Rehabilitation Act of 1984, Public Law 98-221.

Section 2. The general assembly confirms Executive Order 84-667 relating to the creation and establishment of the division for client assistance attached to the office of the secretary of the education and humanities cabinet.

Calendar

HB 408, HB 409, HB 410, HB 360, HB 152, HB 294, HB 482, HB 674, HJR 81, HB 46, HB 134, HB 214, HB 215, HB 221, HB 473, HB 517, HB 546, HB 626, HB 672, HB 682, HB 691, SB 50, SB 52, HCR 75, HB 589, HB 469 and **HB 568** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported HB 489 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—10:14 a.m.)

HB 489 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 588, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Amendment No. 1 to HB 588. Agreed.

Representative Yates moved the adoption of the Committee Amendment No. 2 to HB 588. Agreed.

Representative Yates moved the adoption of the Floor Amendment No. 1 to HB 588. Agreed.

Representative Yates moved that HB 588, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 28, 1986, roll call on HB 588—Appendix A.)

HB 588, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which HB 588, as amended, as passed be reconsidered and said motion be placed on the table. Agreed.

HB 231 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that HB 231 be passed.

On the roll call the vote was: Yeas 8, Nays 68. (See February 28, 1986, roll call on HB 231—Appendix A.)

HB 231 was defeated.

Representative B. Richardson moved that the vote by which HB 231 was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 238, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Amendment No. 1 to HB 238. Agreed.

Representative Kerr moved that HB 238, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See February 28, 1986, roll call on HB 238—Appendix A.)

HB 238, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 238, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 359, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment No. 1 to HB 359. Agreed.

Representative Bennett moved that HB 359, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 18. (See February 28, 1986, roll call on HB 359—Appendix A.)

HB 359, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 359, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 492 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that HB 492 be passed.

On the roll call the vote was: Yeas 68, Nays 11. (See February 28, 1986, roll call on HB 492—Appendix A.)

HB 492 was passed and the title agreed to.

Representative T. Jones moved that the vote by which HB 492 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 552 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 552 be passed.

On the roll call the vote was: Yeas 83, Nays 2. (See February 28, 1986, roll call on HB 552—Appendix A.)

HB 552 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 552 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 600 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that HB 600 be passed.

On the roll call the vote was: Yeas 66, Nays 23. (See February 28, 1986, roll call on HB 600—Appendix A.)

HB 600 was passed and the title agreed to.

Representative Barrows moved that the vote by which HB 600 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 604, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the Committee Amendment No. 1 to HB 604. Agreed.

Representative Siler moved that HB 604, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See February 28, 1986, roll call on HB 604—Appendix A.)

HB 604, as amended, was passed and the title agreed to.

Representative Siler moved that the vote by which HB 604, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 622, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Amendment No. 1 to **HB 622**. Agreed.

Representative Ford moved that **HB 622**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 13. (See February 28, 1986, roll call on **HB 622**—Appendix A.)

HB 622, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 622**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 634, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 2 to **HB 634**. Agreed.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to **HB 634**. Agreed.

Representative Hancock moved that **HB 634**, as amended, be passed.

On the roll call the vote was: Yeas 20, Nays 62. (See February 28, 1986, roll call on **HB 634**—Appendix A.)

HB 634 was defeated.

Representative Hancock moved that the vote by which **HB 634**, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 659, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved the adoption of the Committee Substitute to **HB 659**. Agreed.

Representative Cline moved that **HB 659**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See February 28, 1986, roll call on **HB 659**—Appendix A.)

HB 659, by way of Committee Substitute, was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 659**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 62, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of the Committee Substitute to **HCR 62**. Agreed.

Representative R. Jones moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HCR 62**. Agreed.

Representative R. Jones moved that **HCR 62**, by way of Committee Substitute as amended, be passed.

Representative Donnermeyer moved that **HCR 62** be placed on the Clerk's desk.

Representative Donnermeyer moved that his motion that **HCR 62** be placed on the Clerk's desk be withdrawn. Agreed.

On the roll call the vote was: Yeas 89, Nays 4. (See February 28, 1986, roll call on HCR 62—Appendix A.)

HCR 62, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative R. Jones moved that the vote by which HCR 62, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 451 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that HB 451 be passed.

On the roll call the vote was: Yeas 41, Nays 29. (See February 28, 1986, roll call on HB 451—Appendix A.)

HB 451 was passed and the title agreed to.

Representative Rapier moved that the vote by which HB 451 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 10 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—11:08 a.m.)

Orders of the Day (continued)

HCR 66 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of HCR 66.

On the roll call the vote was: Yeas 88, Nays 1. (See February 28, 1986, roll call on HCR 66—Appendix A.)

HCR 66 was adopted and the title agreed to.

Representative Stumbo moved that the vote by which HCR 66 was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 78 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of HJR 78.

On the roll call the vote was: Yeas 89, Nays 0. (See February 28, 1986, roll call on HJR 78—Appendix A.)

HJR 78 was adopted and the title agreed to.

Representative Cyrus moved that the vote by which HJR 78 was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 28, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of the Committee Amendment No. 1 to SB 28. Agreed.

Representative T. Jones moved the adoption of the Committee Amendment No. 2 to SB 28. Agreed.

Representative T. Jones moved that SB 28, as amended, be passed.

On the roll call the vote was: Yeas 51, Nays 25. (See February 28, 1986, roll call on SB 28—Appendix A.)

SB 28, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which SB 28, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 156 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that SB 156 be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See February 28, 1986, roll call on SB 156—Appendix A.)

SB 156 was passed and the title agreed to.

Representative Richards moved that the vote by which SB 156 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 75, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved the adoption of the Floor Amendment No. 1 to HB 75. Agreed.

Representative Noland moved that HB 75, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See February 28, 1986, roll call on HB 75—Appendix A.)

HB 75, as amended, was passed and the title agreed to.

Representative Noland moved that the vote by which HB 75, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 500, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to HB 500. Agreed.

Representative Johnson moved that HB 500, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See February 28, 1986, roll call on HB 500—Appendix A.)

HB 500, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 500, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 120, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Substitute to HB 120. Agreed.

Representative Meyer moved that HB 120, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See February 28, 1986, roll call on HB 120—Appendix A.)

HB 120, by way of Committee Substitute, was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 120, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introductions of Bills and Resolutions

HB 835, by Representative Burnette: AN ACT relating to the Kentucky agricultural finance corporation.

HB 836, by Representative Burnette: AN ACT relating to judicial districts.

HB 837, by Representative Scorsone: AN ACT relating to cooperative corporations.

HB 838, by Representatives Head, McElroy, Gedling, Dawahare, Rose and Maggard: AN ACT relating to surface coal mining.

HB 839, by Representatives Head, McElroy, Gedling, Stone, Dawahare, Rose, Maggard and Deskins: AN ACT relating to violations of surface coal mining laws.

HB 840, by Representatives Richards and Moberly: AN ACT relating to sick leave for teachers.

HB 841, by Representative Donnermeyer: AN ACT relating to trust and agency accounts.

HB 842, by Representative Rapier: AN ACT relating to sales and use tax.

HB 843, by Representative Rapier: AN ACT relating to oaths and affirmations contained in statutes on revenue and taxation.

HB 844, by Representative Rapier: AN ACT relating to revenue and taxation.

HB 845, by Representative Williams: AN ACT relating to parks and recreation taxing districts.

HB 846, by Representative Williams: AN ACT relating to sheriffs.

HB 847, by Representatives Reinhardt and McElroy: AN ACT relating to motor vehicles.

HB 848, by Representatives Smith and Burnette: An ACT relating to the sales and use tax.

HB 849, by Representatives Mann, Yates, Kerr, P. Clark, L. Clark, Burch, Bronger, Donnermeyer, McBee, Riner, K. Harper and Bennett: AN ACT relating to law enforcement.

HB 850, by Representative Ellington: AN ACT relating to the utility gross receipts license tax.

HB 851, by Representative Clarke: AN ACT relating to health insurance coverage for state employes.

HB 852, by Representatives Riner and Priddy: AN ACT relating to crimes and punishments.

HB 853, by Representatives Bendl, P. Clark, Long, Mack, Hines, Moberly and T. Jones: AN ACT relating to medical assistance.

HB 854, by Representative LeMaster: AN ACT relating to collection of taxes.

HR 112, by Representative Hancock: A RESOLUTION in honor of Kentucky Youth Art Month.

HR 113, by Representative J. Harper: A RESOLUTION honoring the Sesquicentennial Celebration of the Battle of the Alamo.

HCR 114, by Representatives T. Jones, Noe, Scorsone, Mann, Barrows, Stumbo, Meyer, Rapier, Moberly, Little, Williams and Richards: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Commission to study the education statutes in the KRS.

HJR 115, by Representative Noe: A JOINT RESOLUTION directing the State Board of Education to conduct a study to identify programs which enhance the educational opportunities of public high school students.

Posting of Bills and Resolutions for Consideration:

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: HB 119, HB 825, HB 783, SB 95, SB 193.

Natural Resources and Environment: SB 99, SB 100, SB 101.

Education: HB 732, HB 727.

Judiciary-Civil: HB 226, HB 680, HB 711, HB 719, SB 240.

Energy: HB 510.

Transportation: HB 685, HB 686, HB 687, HB 706, HB 722, HB 563, HB 733.

Report of Committees

The Committee on Judiciary-Criminal reported HB 534, HB 574, HB 613 with Committee Amendment attached thereto, HB 642, HB 726 with Committee Amendment attached thereto, and HB 774 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 534, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 434.445 is amended to read as follows:

(1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing sounds on phonograph records, discs, tapes, films or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.

(2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is to be transferred without the consent of the performer, shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both. Each individual transfer or manufacture of such recorded article shall constitute a separate offense.

(3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or resale, or sells or resells, distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall be *guilty of a Class D felony* [~~fined not more than five hundred dollars ($500), or imprisoned for not less than ninety (90) days nor more than twelve (12) months, or both~~]. Possession of *two (2)* [~~five (5)~~] or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are

intended for sale or distribution in violation of this section. Each sale or resale of any such article shall constitute a separate offense.

(4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall be fined no more than five hundred dollars ($500). Each sale or distribution of any such article shall constitute a separate offense.

(5) This section does not apply to any person who transfers or causes to be transferred any such sounds intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

(6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the state police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

HB 574, AN ACT relating to unlawful taking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section "material" refers to all forms of expression, whether information, discoursive, conceptual, artistic, or otherwise, and in all forms of media, whether graphic, visual, tactile, electronic, or otherwise, which are in the possession or custody of a library, archives, museum or repository of public records.

(2) A peace officer or security agent in the employ of a library, archives, museum or repository of public records of the Commonwealth of Kentucky or any county or municipality thereof, who has probable cause for believing that a person has unlawfully taken materials, may, in a reasonable manner and for a reasonable length of time, detain that person on the premises of the library, archives, museum or repository of public records, or in the immediate vicinity thereof, so long as the peace officer or security agent is in fresh pursuit, and so long as the detention is for any of the following purposes:

(a) To request identification;

(b) To verify that identification;

(c) To conduct an investigation in a reasonable manner and within a reasonable length of time to determine whether the detained person has unlawfully taken the materials or to determine the ownership of the materials;

(d) To recover or attempt to recover unlawfully taken materials; or

(e) In the case of a security agent, to inform a peace officer or law enforcement agency of the detention of the person and to surrender the person to the custody of a peace officer.

(3) The recovery of materials unlawfully taken from a library, archives, museum or repository of public records shall not limit the right of a peace officer or security agent to accomplish the purposes of subsection (2) of this section.

HB 613, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years; and

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304.

(i) Conviction for possession or use of fraudulent identification to purchase liquor as provided by KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1), who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a).

(6) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

Section 2. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.020 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) or imprisoned not less than five (5) nor more than thirty (30) days, or both.

(3) Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year, nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(4) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(5) Any person, firm or corporation violating any provision of KRS 244.083 and [~~244.085~~] shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(6) *Any person who violates any provision of KRS 244.085 shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) and shall have his motor vehicle operator's license, issued pursuant to KRS 186.410, suspended for six (6) months upon the first offense; not less than one hundred dollars ($100) nor more than two hundred dollars ($200) and shall have his motor vehicle operator's license, issued pursuant to KRS 186.410, suspended for one (1) year upon the second offense; and not less than five hundred dollars ($500) nor more than one thousand dollars ($1000) and shall have his motor vehicle operator's license, issued pursuant to KRS 186.410, suspended for two (2) years upon the third or subsequent offense.*

(7) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

The Committee Amendment No. 1 to HB 613 is as follows:

Amend printed copy of HB 613:

to delete the same and to insert in lieu thereof:

"*(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.*"

and on page 3, line 14, following "189.520 (1)" to add

"*or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense*" and on page 4, lines 23 through 26, to delete the same and to insert in lieu thereof:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

All courts shall report convictions under Section 1 of this Act to the transportation cabinet."

and on pages 5 and 6, lines 1 through 26, to delete the same and on page 7, lines 1 through 8, to delete the same.

HB 642, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 434.655 is amended to read as follows:

(1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, as stolen or not received is deemed to have used said credit or debit card in order to defraud the issuer*; and said cardholder is subject to the penalties set forth in subsection (1) of KRS 434.730 if the value of all money, goods, services or other things of value furnished in violation of this section does not exceed three hundred dollars ($300) in any six (6) month period; and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value is three hundred dollars ($300) or more in any six (6) month period*[~~, and therefore violates this subsection and is subject to the penalties set forth in subsection (1) of KRS 434.730~~].

(2) A cardholder who, after using a credit or debit card, fraudulently reports to the issuer that such usage or transaction was not made by said cardholder, or that said credit or debit card was lost, stolen, or not received at the time of such usage or transaction, in order to defraud the issuer, the cardholder, or any other person *in connection with said usage, is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services or other things of value furnished in violation of this section does not exceed three hundred dollars ($300) in any six (6) month period; and is subject to the penalties set forth in subsection (2) of KRS 434.730 if such value is three hundred dollars ($300) or more in any six (6) month period*[~~, violates this subsection and is subject to the penalties set forth in subsection (1) of KRS 434.730~~].

HB 726, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 531.310 is amended to read as follows:

(1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.

(2) Use of a minor in a sexual performance is:

(a) A Class *C* [~~D~~] felony if the minor so used is less than eighteen (18) years old at the time of the offense;

(b) A Class *B* [~~C~~] felony if the minor so used is less than sixteen (16) years old at the time of the offense;

(c) A Class *A* [~~B~~] felony if the minor so used incurs physical injury thereby.

Section 2. KRS 531.320 is amended to read as follows:

(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

(2) Promoting a sexual performance by a minor is:

(a) A Class *C* [~~D~~] felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time of the offense;

(b) A Class *B* [~~C~~] felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time of the offense;

(c) A Class *A* [~~B~~] felony if the minor involved in the sexual performance incurs physical injury thereby.

The Committee Amendment No. 1 to HB 726 is as follows:

Amend printed copy of HB 726:

On page 1, line 7, place brackets [ ] around the word “of” and to strike it through.

and to add after “the” the following “*minor engages in the prohibited activity*”

and on page 1, line 8, to place brackets [ ] around the word “offense” and strike it through.

Page 1, line 10, to place brackets [ ] around the word “of” and to strike it through and to add after “the” the following: “*minor engages in the prohibited activity*

and on page 1, line 11, to place brackets [ ] around the word ”offense“ and strike it through

and on page 2, line 1, to place brackets [ ] around the word ”of“ and to strike it through and to add after the word ”of“ the following: ”*minor engages in the prohibited activity*“ and to place brackets [ ] around the word ”offense“ and strike it through.

and on page 2, line 4, to place brackets [ ] around the word ”of“ and to strike it through and to add after the word ”of“ the following: ”*minor engages in the prohibited activity*“ and to place brackets [ ] around the word ”offense“ and strike it through

HB 774, AN ACT relating to criminal history records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The Kentucky state police shall, in cooperation with the administrative office of the courts and the corrections cabinet, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The data base shall at a minimum contain the information required in this Act;

(2) The Kentucky state police shall provide access to the administrative office of the courts and the corrections cabinet to its data base; and

(3) The Kentucky state police and the corrections cabinet shall assign the same identification number or other variable to each person whose name appears in the data base.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The administrative office of the courts shall, in cooperation with the Kentucky state police and the corrections cabinet, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The data base shall at a minimum contain the information contained in this Act;

(2) The administrative office of the courts shall provide access to the Kentucky state police and the corrections cabinet to its data base; and

(3) The administrative office of the courts shall, where such number is known, assign the same identification number or other variable to each person whose name appears in the data base.

SECTION 3. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet shall, in cooperation with the Kentucky state police and the administrative office of the courts be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

(1) The data base shall at a minimum contain the information required in this Act;

(2) The corrections cabinet shall provide access to the Kentucky state police and the administrative office of the courts to its data base; and

(3) The corrections cabinet shall assign the same identification number or other variable to each person whose name appears in the data base.

SECTION 4. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky state police, corrections cabinet, and the administrative office of the courts shall provide access to their data bases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies and to the legislative research commission.

(2) Criminal justice agencies and the legislative research commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation but shall have access to such information when determined by the director of the legislative research commission to be necessary for a legislative purpose.

SECTION 5. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

All data supplied to the centralized criminal history record information system by the Kentucky state police, administrative office of the courts, and the corrections cabinet shall be compatible with the system.

SECTION 6. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

All data supplied to the centralized criminal history record information system by the administrative office of the courts shall include the uniform citation number applicable to the information reported.

SECTION 7. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The centralized criminal history record information system shall consist of a minimum of seven (7) levels of information as follows:

(1) Information relating to the offender;

(2) Information relating to the arrest;

(3) Information relating to the prosecution and action by the grand jury (when the case is brought before the grand jury) action upon the case;

(4) Information relating to the court disposition of the case;

(5) Information relating to sentencing;

(6) Information relating to the handling of the offender if he is received by a correctional or other institution; and

(7) Programs and information designed to enable the general assembly, executive branch agencies, and others to assess the efficiency, functioning, and other aspects of the operation of the criminal justice system.

SECTION 8. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The offender level of the system shall consist of at least the following information:

(1) Name of the offender, including other names by which he is known;

(2) Date of birth;

(3) Sex;

(4) Race;

(5) Ethnic origin;

(6) Residence address at time of arrest;

(7) Uniform citation number; and

(8) Identification number.

SECTION 9. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The arrest level of the system shall consist of at least the following information:

(1) Arresting agency;

(2) Date, place and time of offense;

(3) Number of arrest charges;

(4) Listing of arrest charges by name and KRS number;

(5) Charge sequence and incident number;

(6) Level of arrest charge or degree of offense charged;

(7) Date, time, and place of arrest;

(8) If a theft or criminal damage to property offense, the dollar amount of property damaged or stolen;

(9) Exact disposition of the case by police following arrest; and

(10) Date of disposition of the case by the police.

SECTION 10. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The prosecution/grand jury level of the system shall consist of at least the following information:

(1) Listing of each charged offense by name and KRS number;

(2) Level of offense charged or degree of offense charged for each offense in subsection (1) of this section;

(3) Number of charged offenses;

(4) If the case was disposed of by the prosecutor, the nature of such disposition and the date of such disposition;

(5) A listing of the charges disposed of in subsection (4) of this section;

(6) A correlation of the number of offenses charged at arrest and the number of offenses brought before the grand jury, offense by offense;

(7) Listing of each charged offense, and the level thereof, brought before the grand jury;

(8) Listing of the disposition of each charged offense brought before the grand jury;

(9) Date of indictment;

(10) Listing of each charged offense, and the level thereof, for which the offender was indicted;

(11) Listing of the number of criminal complaints brought before the prosecutor, the offense alleged, and the disposition thereof; and

(12) Listing of the number of criminal complaints sought by citizens upon which no action was taken by the prosecutor, the offense alleged, and the date of disposition.

SECTION 11. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The court disposition level of the system shall consist of at least the following information as relates to the arraignment:

(1) The court which disposed of the offense;

(2) The name of the judge presiding at the time of disposition;

(3) Date of arraignment;

(4) Listing of each charged offense, and the level thereof, brought before the court at the arraignment;

(5) Listing of the disposition of each charged offense, and the level thereof disposed of by the court at the arraignment; and

(6) Defendant's plea to each offense at the arraignment.

SECTION 12. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The court disposition level of the system shall consist of at least the following information as relates to bond and pretrial release:

(1) Whether or not the defendant was released on bail or pretrial release;

(2) If released on bail:

(a) The amount of the bail;

(b) Whether the bail was cash, property, a percentage of cash bail, secured, unsecured, or otherwise;

(c) Whether the conditions of bail were satisfied; and

(d) Whether or not the bail was returned, forfeited, credited to the public advocate or otherwise.

(3) If released on any other form of pretrial release:

(a) Whether or not released on own recognizance;

(b) Whether release was upon conditions, if so what conditions; and

(c) Whether the conditions of release were satisfied.

SECTION 13. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The court disposition level of the system shall consist of at least the following information as relates to counsel:

(1) Did the defendant have counsel;

(2) Did the defendant retain private counsel;

(3) Was counsel provided by the public advocate;

(4) If counsel was provided by the public advocate:

(a) Was reimbursement sought;

(b) What was the amount of reimbursement sought;

(c) What was the amount of reimbursement paid; and

(d) What amount was recovered from bail money.

(5) Did the defendant have more than one (1) counsel; if so, the number of counsel.

SECTION 14. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The court disposition level of the system shall consist of at least the following information as relates to the type of trial:

(1) Jury trial; or

(2) Trial before the judge.

SECTION 15. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The court disposition level of the system shall consist of at least the following information as relates to the offenses charged and the offenses disposed of:

(1) The court which disposed of the offense;

(2) The name of the presiding judge;

(3) Date upon which the trial began;

(4) The final pleading, as to each charged offense and the level thereof;

(5) Listing of charged offenses disposed of by the court together with:

(a) Date of disposition;

(b) Listing of each offense and the KRS number, name and level;

(c) Whether the offense was dismissed in exchange for a guilty plea on another offense; and

(d) Number of offenses disposed of by the court.

(6) Listing of offenses for which the defendant was convicted by KRS number, name and level;

(7) Number of convicted offenses; and

(8) Date of conviction.

SECTION 16. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The sentencing level of the system shall consist of at least the following information as relates to the sentence imposed:

(1) Sentencing date;

(2) Sentence for each offense;

(3) If sentenced to imprisonment:

(a) Place of imprisonment;

(b) Sentence minimum for each offense;

(c) Sentence maximum for each offense;

(d) Consecutive multiple incarceration;

(e) Concurrent multiple incarceration;

(f) Was the defendant sentenced without privilege of parole for 25 years; and

(g) If answer to paragraph (f) of this subsection is yes, which aggravating circumstance or circumstances were found.

(4) If sentenced to a fine:

(a) The amount of the fine;

(b) Is the fine to be paid in installments;

(c) If answer to paragraph (b) of this subsection is yes, amount of each installment;

(d) Was the fine paid in full upon conviction;

(e) If not, what amount was paid; and

(f) How much of money held for bail was used in payment of the fine.

(5) If any other sentence was imposed:

(a) The nature of the sentence;

(b) Was conditional discharge imposed and what were the conditions of the discharge;

(c) Was restitution imposed;

(d) If restitution was imposed, what were the conditions of restitution;

(e) If monetary restitution was imposed, what was the amount;

(f) Was the amount paid in full upon conviction;

(g) If restitution was to be paid in installments, what is the amount of each installment and to whom is it to be paid; and

(h) List any other type of sentence imposed.

(6) Were court costs imposed:

(a) The amount of the costs;

(b) Are the costs to be paid in installments;

(c) If answer to paragraph (b) of this subsection is yes, the amount of each installment;

(d) Were the costs paid in full upon conviction; and

(e) If not, how much was paid.

(7) Was a crime victim compensation fund cost imposed:

(a) The amount imposed;

(b) Is this amount to be paid in installments;

(c) If answer to paragraph (b) of this subsection is yes, the amount of each installment;

(d) Was the crime victim compensation fund cost paid in full upon conviction; and

(e) If not, how much was paid.

(8) List all other fees, costs, and similar monetary penalties which were imposed but not listed above:

(a) List separately the amount of each;

(b) List separately each to be paid in installments;

(c) List separately the amount of each installment;

(d) Were these costs paid in full upon conviction; list each; and

(e) If not, list the amount paid on each.

SECTION 17. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The sentencing level of the system shall consist of at least the following information in regard to probation or other nonimposition of the sentence:

(1) List separately any conviction for which sentence was imposed but was probated, suspended, or otherwise not imposed;

(2) Was probation or nonimposition of the sentence conditioned in any manner:

(a) List the conditions; and

(b) What is the method of monitoring compliance with the conditions.

(3) If a portion of a fine or other cost was probated or otherwise not imposed:

(a) List for each offense the amount of the fine not imposed; and

(b) List for each offense the amount of court costs or other costs or fees not imposed.

(4) If a sentence of imprisonment was not imposed or a portion thereof was not imposed:

(a) List the offense, the sentence, and the amount not imposed; and

(b) If return to confinement or other imprisonment was a condition of nonimposition of a sentence, list the conditions thereof.

SECTION 18. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The sentencing level of the system shall consist of at least the following information in regard to plea bargaining:

(1) Did the defendant plead guilty to any offense in exchange for a lesser penalty or in exchange for dropping other charges against him;

(2) If the answer to subsection (1) of this section is yes:

(a) What offenses and levels of offense was a guilty plea accepted to; list each separately; and

(b) What offenses and levels of offense were dismissed in exchange for a plea of guilty; list each separately;

(2) What punishment was imposed for each offense for which a plea of guilty was accepted in exchange for a lesser penalty or in exchange for dropping charges:

(a) Imprisonment; list offense and term of imprisonment for each offense separately; and

(b) Fine; list offense, and amount of fine for each offense separately;

(3) Was probation, suspended sentence or any other nonimposition of sentence imposed for any offense where a plea of guilty was made in exchange for a lesser penalty or in exchange for dropping other charges:

(a) Describe each separately; and

(b) Describe any conditions placed upon each; list separately.

SECTION 19. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The institutional level of the system shall consist of at least the following information:

(1) Date of institutionalization;

(2) Type of incoming action;

(3) If defendant sentenced to death:

(a) First scheduled date of execution;

(b) Date defendant executed;

(c) Date sentence commuted in lieu of execution;

(d) Sentence to which sentence of death was commuted;

(3) Date defendant released from institution;

(4) Type of release from institution;

(5) If the offender is released on parole:

(a) Offense for which convicted;

(b) Maximum expiration date;

(c) Minimum expiration date;

(d) Was the parole supervision fee imposed;

(e) What was the amount actually imposed for the parole supervision fee;

(f) What amount of the parole supervision fee was actually collected;

(g) Was restitution ordered as part of conditions of the parole;

(h) What amount of restitution was ordered;

(i) What amount of restitution has been paid;

(j) Was a victim impact statement presented to the parole board; did it favor the release of the offender;

(k) Did the prosecutor present a statement to the parole board; did it favor the release of the offender; and

(l) Did the victim or a representative of the victim appear before the parole board; did he favor the release of the offender;

(6) If the offender released on parole violates parole or is rearrested:

(a) What was the specific parole violation;

(b) Was the offender arrested for the violation;

(c) What was the outcome of the parole violation hearing;

(d) Was the offender reinstitutionalized;

(e) If arrested for a new criminal offense, list the KRS number, name, and level of the offense;

(f) Was the offender subsequently convicted thereof;

(g) Was the offender reinstitutionalized for the offense; and

(h) Was the offender placed on probation for the offense.

SECTION 20. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The informational and evaluational level of the system shall consist of at least the following information:

(1) KRS numbers, names and levels of offenses;

(2) Updates of information on:

(a) Payment of fines;

(b) Payment of costs;

(c) Payment of restitution amounts;

(d) Payment of court ordered monetary penalties other than the above; and

(e) Satisfaction of other types of court ordered restitution;

(2) Cases in which shock probation has been granted:

(a) In such cases all information required for Sections 17 and 18 of this Act shall be entered for each case as an update to that person's file; and

(b) Extracted data on shock probation shall be placed in the annual report of the administrative office of the courts.

SECTION 21. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

Information submitted by the circuit clerk to the administrative office of the courts shall be a public record and shall be open to public inspection pursuant to KRS Chapter 61. KRS 17.150 excludes centralized criminal history records from public inspection; however, the subject of a record contained in that system shall have access to records relating to himself subject to limitations set forth in KRS Chapter 61.

SECTION 22. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The administrative office of the courts shall issue an annual report beginning calendar year 1987 with sufficient detail as to be able to identify, on a county by county basis as well as statewide totals, for felony arrest:

(1) Conviction percentages;

(2) Percentages of fines, imprisonment, or other penalty assessment;

(3) Percentage of acquittals;

(4) Percentage of dismissals;

(5) Percentage of pleas as charges;

(6) Percentage of pleas to reduce charges;

(7) Percentage of disposition to guilty as charged by trial;

(8) Percentage of those found guilty of lesser charge by trial;

(9) Percentage of cases where jury trial taken;

(10) Percentage of trials which are bench trials; and

(11) The number of juvenile offenders tried as an adult.

The information gathered shall be available to all agencies involved in the criminal justice system and the public.

SECTION 23. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The Kentucky uniform crime report shall be issued annually. The administrative office of the courts may combine its annual report with the Kentucky uniform crime report.

SECTION 24. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

Each circuit clerk shall submit to the administrative office of the courts, in a manner prescribed by the administrative office of the courts, the final court disposition. Said disposition shall be inclusive of regulatory violations and traffic cases which are not subject to prepayment. The administrative office of the courts shall update their data base within ninety (90) days of the disposition. The update shall include information from the:

(1) Offender level;

(2) Prosecution/grand jury level;

(3) Court disposition level;

(4) Sentencing level; and

(5) Informational and evaluational level.

SECTION 25. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The Kentucky state police shall update the centralized criminal history record information system within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender level;

(2) Arrest level; and

(3) Informational and evaluational level.

SECTION 26. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The corrections cabinet shall update their own data base within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender level;

(2) Institutional level; and

(3) Informational and evaluational level.

Section 27. KRS 431.450 is amended to read as follows:

(1) The department of state police in consultation with the department of transportation shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform citation.

(2) The citation shall:

(a) Be approved by the supreme court;

(b) Consist of an original document and *five (5)* [~~four (4)~~] copies;

(c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and

(d) Contain such other information as may be required by the supreme court.

(3) The circuit court clerk shall maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the supreme court to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.

(4) All peace officers in the Commonwealth shall use the uniform citation for all violations of the traffic laws and for such misdemeanors and violations as are listed in KRS 431.451.

Section 28. The implementation schedule for this Act shall be as follows:

(1) Initiation and use of uniform citation, January 1, 1987;

(2) Collection of all data required in this Act as relates to felony level offenses, January 1, 1987;

(3) Initiation of common data elements by the administrative office of the courts, Kentucky state police, and corrections cabinet, January 1, 1988;

(4) Actual sharing of computer data among the administrative office of the courts, Kentucky state police, corrections cabinet, and the legislative research commission, January 1, 1987;

(5) Collection of all data required in this Act as relates to misdemeanors, violations, regulatory offenses, and traffic and other offenses, January 1, 1988;

(6) First annual report regarding felony level data, July 1, 1988;

(7) First annual report regarding felony and misdemeanor and other offense data, July 1, 1989.

All acts required herein shall be completed no later than the date specified but may be completed at any time prior to the dates specified herein.

Motions, Petitions and Communications (continued)

Representative J. Harper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative J. Harper moved the adoption of the following HR 113:

HR 113, A RESOLUTION honoring the Sesquicentennial Celebration of the Battle of the Alamo.

WHEREAS, formerly a Spanish mission, the Alamo located in present day San Antonio, Texas, was the scene of a brutal thirteen day seige which ended on March 6, 1836; and

WHEREAS, the repressive military dictatorship of Santa Anna resulted in 187 American heroes following the example of their fathers and forefathers of the original 13 colonies, who revolted against absentee ownership and taxation without representation; and

WHEREAS, many native sons of the Commonwealth of Kentucky were among the 187 defenders of the Alamo, who on that fateful day of March 6, 1836, gave the supreme sacrifice of their blood and their lives in a furious five hour assault by the tyrant Santa Anna and his army of 6,000 Mexican army regulars; and

WHEREAS, Santa Anna's pyrrhic victory came only by the death of 1,500 soldiers with another 500 gravely wounded; and

WHEREAS, the men who fell in the defense of the Alamo exemplified courage and sacrifice and their actions set in motion a series of circumstances that would make the United States a power from the Atlantic to the Pacific; and

WHEREAS, the Republic of Texas, whose statehood was destined to become a reality on that brave and memorable day of March 6, 1836, and the Commonwealth of Kentucky will always enjoy a special relationship which has been forged by the blood of our people who fought and died to preserve freedom;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the citizens of the Commonwealth of Kentucky hereby extend most cordial greetings to the citizens of the great state of Texas upon the occasion of the Sesquicentennial Celebration, 1836—1986, of the Battle of the Alamo.

Section 2. That immediately upon its passage, the Clerk of the House is directed to transmit copies of this resolution to the following dignitaries and newspapers in order to be received before the Sesquicentennial Celebration begins on March 6, 1986:

1. The Honorable Mark White, Governor of the State of Texas, P.O. Box 12428 Capitol Station, Austin, Texas 78711;

2. The Honorable William P. Hobby, Lt. Governor and President of the Texas Senate, P.O. Box 12068 Capitol Station, Austin, Texas 78711;

3. The Honorable Gib Lewis, Speaker of the Texas House of Representatives, P.O. Box 2910, Austin, Texas 78769;

4. Members of the Texas Senate, P.O. Box 12068 Capitol Station, Austin, Texas 78711;

5. Members of the Texas House of Representatives, P.O. Box 2910, Austin, Texas 78769;

6. The Honorable Henry Cisneros, Mayor of the City of San Antonio, P.O. Box 9066, San Antonio, Texas 78285;

7. Mr. Steve Beck, Assistant Curator of the Historical Museum of the Alamo, P.O. Box 2599, San Antonio, Texas 78299;

8. United Press International, Austin Bureau Manager, Bob Lowry—Attention for State Wire Service, P.O. Box 12187 Capitol Station, Austin, Texas 78711;

9. Associated Press, Correspondence—State Wire Service, Attention, Ms. Sheila Allee, Express Publishing Company, Avenue E and Third Street, San Antonio, Texas 78206;

10. Associated Press, State Wire Service, Attention News Editor, Southland Center Suite 2100, Dallas, Texas 75201;

11. San Antonio Light, P.O. Box 161, San Antonio, Texas 78291;

12. San Antonio Express and News, P.O. Box 2171, San Antonio, Texas 78297;

13. Houston Cronical, P.O. Box 4260, Houston, Texas 77210;

14. Houston Post, 4747 Southwest Freeway, Houston, Texas 77027;

15. Ft. Worth Star Telegram, P.O. Box 1870, Ft. Worth, Texas 76101;

16. Dallas Morning News, P.O. Box 225237, Dallas, Texas 75265;

17. Dallas Times-Herald, 1101 Pacific, Dallas, Texas 75202;

18. Austin American Statesman, P.O. Box 670, Austin, Texas 78767;

19. Waco Tribune-Herald, P.O. Box 20488, Waco, Texas 76702; and

20. Temple Daily Telegram, P.O. Box 6114, Temple, Texas 76503.

HR 113 was adopted by voice vote.

Representative J. Harper moved that a call of the roll be taken to show co-sponsors of HR 113. Agreed.

The following members requested that their names be added as co-sponsors of HR 113: Yeas 51—Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Crupper, Cyrus, Dawahare, Ellington, Ford, Gray, Gregory, Guenthner, J. Harper, Keith, Kerr, Layman, Lefevers, Long, Lyne, Mack, McBee, McElroy, Moberly, Morris, Noland, O'Brien, Pearman, Priddy, Rapier, Reinhardt, P. Richardson, Riner, Siler, Stewart, Stone, Stumbo, Todd, Turner, Williams, Worthington, Yates.

Representative Donnermeyer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Donnermeyer moved that call of the roll be taken to show co-sponsors of HR 8. Agreed.

The following members requested that their names be added as co-sponsors of HR 8: Yeas 88—Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Farrow, Gedling, Gray, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates.

Representative Donnermeyer moved the adoption of the following HR 8:

HR 8, A RESOLUTION adjourning the House of Representatives in commemoration of the 75th anniversary of the dedication of the new state capitol building.

WHEREAS, the prestigious members of the Kentucky General Assembly convened within these chambers for the first time seventy-five years ago; and

WHEREAS, Kentucky's 1904 General Assembly approved—with but one dissenting vote in each chamber—a one million dollar appropriation for the purpose of constructing a new state capitol building; and

WHEREAS, a commission appointed to carry out the task of erecting the new building selected architect Frank M. Andrews to design it; and

WHEREAS, hundreds of thousands of people flocked to the city of Frankfort for the formal dedication of the new state capitol building in 1910; and

WHEREAS, since that day the legislature of the Commonwealth of Kentucky has assembled every two years in this magnificent structure; and

WHEREAS, the Office of Historic Properties completed a massive sprucing-up of the capitol in 1985; and

WHEREAS, this year marks the first public commemoration of the dedication of the new state capitol building;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the present members of the House of Representatives are proud to serve within the hallowed halls of this capitol.

Section 2. That when this honorable body does adjourn this day, Tuesday, January 7, 1985, it does so in commemoration of the 75th anniversary of the dedication of our beloved state capitol building.

HR 8 was adopted by voice vote.

Representative Stumbo moved that HB 304 be recommitted to the Committee on State Government. Agreed.

Representative Crupper moved the adoption of the following Legislative Citation No. 43:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, Mr. Cecil Sargent, driver for the Leaseway Trucking, Incorporation, of Florence, Kentucky, as the National Employee of the Year. It is most noteworthy that neither severe weather conditions nor long hours have detoured you from performing your duties and responsibilities with enthusiasm and efficiency. Your self-motivation and organizational skills have proven you to be a natural leader and an invigorating nucleus of the American work force. Your conscientious concern for others as well as your charitable and benevolent spirit is exemplary of your loyalty and dedication that affords you this recognition. Your safety record of eighteen years with no accidents is outstanding and exceptional. Your leadership and personal interest in your community is reflective of your deep compassion for those less fortunate, and your genuine desire to strive to help make your neighborhood a better place in which to live. This prestigious body honors you for the great pride and distinction you have bestowed on yourself, your family, your employer and your community. (Sponsored by Representative Crupper)

Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 44:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes Clifford M. Wallace, Superintendent of Pendleton County School District, for being named to the "100 Executive Educators for 1986" by the Executive Education, a magazine for school professionals. You were recognized for your excellent leadership of a school system with an enrollment of 2,500 or fewer. It is most noteworthy that you were chosen by an independent panel of nationally recognized experts on school administration for your promotion of training of administrators and teachers. You are to be commended for the training program of educators as you have helped create a statewide awareness of the need for administrative training.

This prestigious body salutes and applauds your dedication and commitment to community involvement as well as your accomplishments and achievements in the education field. (Sponsored by Representative Reinhardt)

Agreed.

Representative Reinhardt requested that he be recorded as changing his vote from "nay" to "yea" on HB 603. Agreed.

Representative Williams requested that he be recorded as voting "yea" on HJR 1, "nay" on HB 29, and "yea" on HB 604. Agreed.

Representative Guenthner requested that he be recorded as voting "yea" on HB 231, "yea" on HB 588, "yea" on HB 552, "yea" on HB 600, "yea" on HB 604, and "yea" on HB 622. Agreed.

Representative Williams requested that he be recorded as changing his vote from "yea" to "nay" on HB 600. Agreed.

Representative Noe requested that he be recorded as changing his vote from "nay" to "yea" on HB 150. Agreed.

Representative Hines requested that he be recorded as voting "yea" on HR 69, "yea" on SB 10, "yea" on HB 515, "yea" on HB 516, "yea" on HB 571, "yea" on HB 444, "yea" on HB 17, "yea" on HB 489, and "yea" on SB 158. Agreed.

Representative J. Harper requested that he be recorded as voting "yea" on HB 659. Agreed.

Representative Reinhardt requested that he be recorded as voting "yea" on HB 622. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Title Amendment to HB 738, by Representative P. Clark:

Amend printed copy of HB 738:

On page 1, by amending the title to read "AN ACT relating to pensions for police in cities of the first class and declaring an emergency.".

Floor Amendment No. 2 to HB 709, by Representative Donnermeyer:

Amend printed copy of HB 709:

On page 9, by deleting lines 4 and 5 in their entirety.

Floor Amendment No. 1 to HB 627, by Representative Hancock:

Amend printed copy of HB 627:

On page 1, line 14, by inserting after "*staffed*" the following:

"*, in coordination with the governmental services center at Kentucky State University,*".

Floor Amendment No. 1 to HB 666, by Representative Meyer:

Amend printed copy of HB 666:

On page 2, line 16, delete the following: "*1984 Acts Chapter 177, as amended by*"; and

On page 4, line 6, insert between the comma and the word "*local*", the following: "*no local government retirement system shall be created pursuant to KRS 70.580-70.598 and any*"; and

On page 5, line 1, delete the following: "*1984 Acts Chapter 177 as amended by*"; and

On page 5, beginning on line 4, delete language beginning with the word "*as*" and ending with the word "*Act*" on line 6; and

On page 7, line 23, delete the following: "*1984 Acts Chapter 177, as amended by*"; and

On page 33, line 17, add the following new sections:

"Section 12. *KRS 78.531 is re-enacted to read as follows:*

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.300 through 90.420, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.784, 95.851 through 95.884 and 96.180 notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.510 through 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, 95.851 through 95.884 or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 13. *KRS 78.540 is re-enacted to read as follows:*

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system, except that city managers or other appointed local government executives who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.510 to 78.852.

(3) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation."; and

On page 33, line 17, renumber Section 12 as Section 14.

Floor Amendment No. 1 to the Committee Substitute to HCR 65, by Representative Hancock:

Amend printed copy of Committee Substitute for HCR 65:

On page 2, line 8 after "Section 2." by inserting the following:

"That if an amendment to the United States Constitution is not proposed by Congress providing for a balanced federal budget, then this body petitions and requests the Congress of the United States to enact legislation which would establish the procedure for the several states to call a limited constitutional convention to address specified subjects for inclusion in the United States Constitution.

On page 2, line 8 after "Section 2." by deleting the following:

"That it is the sense of this body that,"

On page 2, by deleting lines 9 through 16;

On page 2, line 17 after "Section 3." by inserting the following:

"That it is the sense of this body that enactment of legislation providing for a limited constitutional convention would result in litigation challenging the constitutionality of congress's authority to enact such legislation under Article V of the United States Constitution, and that the Supreme Court of the United States would exercise its original jurisdiction as an actual case or controversy would exist within Article 3 Section 2 of the United States Constitution, and that the issue of calling a limited constitutional convention would be finally resolved without jeopardizing the existing articles of and amendments to the United States Constitution.

On page 2, line 17, before "That the Secretary" by inserting "Section 4."

Floor Amendment No. 1 to HB 152, by Representative P. Richardson:

Amend printed copy of HB 152:

On page 2, lines 7 through 24,

by deleting SECTION 2 in its entirety;

And by renumbering the sections following accordingly;

And on page 12, line 12,

by deleting the number "*two (2)*" and inserting in lieu thereof the number "*four (4)*";

And on page 20, line 26,

by deleting the phrase "*at least one*";

And on page 21, line 1,

by deleting the phrase "*(l) physician; and*";

And also on line 1,

by deleting the opening bracket "[" preceding the phrase "~~At least~~"

And by deleting the strike-throughs from all words following thereafter on line l;

And on line 2,

by deleting the strike throughs from all words on line 2;

And on line 3,

by inserting the word "*elected*" in front of the word "[appointed]" and by placing an opening bracket "[" preceding the word "[appointed]" and by placing a closing bracket "]" after the word "[appointed]";

And on line 3,

by inserting the word "*who*" after the word "~~board~~";

And on line 3,

by deleting the strike throughs from the following words: "~~the~~"...."~~members of the board shall be doctors of~~";

And on lines 4 through 10,

by deleting the strike throughs from all words thereon;

And on line 10,

by deleting the closing bracket "]" following the word "~~representatives~~"

The following meetings were announced:

Committee on Appropriations and Revenue: Monday, March 3, 1986, 1:00 p.m.

Committee on Energy: Special meeting, Monday, March 3, 1986, on adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 3, 1986.

On the roll call the vote was yeas 72—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Crupper, Dawahare, Donnermeyer, Ellington, Farrow, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Holloway, Johnson, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Mann, McBee,43cElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Scorsone, Siler, Smith, Stewart, Strong, Stumbo, Thomas, Turner, White, Worthington, Yates. Nays 5—Bronger, Guenthner, Heleringer, Holbrook, Williams.

The motion to adjourn was adopted.

MONDAY, MARCH 3, 1986

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Charles Jones, First Baptist Church, Pineville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, Gregory and Turner.

Representative Overstreet moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Overstreet moved that the reading of the Journal of February 28, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 283, SCR 57, SCR 59, HB 209 with Senate Amendment, HB 579 with Senate Amendments, and HB 471.

Introduction of Bills and Resolutions

HB 855, by Representative Lear: AN ACT relating to motor vehicles.

HB 856, by Representative Bennett: AN ACT relating to workers' compensation.

HB 857, by Representative P. Richardson: AN ACT relating to acquisition of banks.

HB 858, by Representative P. Richardson: AN ACT relating to occupational license taxes.

HB 859, by Representatives P. Clark, Cowan, Lile, Burch, Yates, Priddy, L. Clark, Holloway and Heleringer: AN ACT relating to county police.

HB 860, by Representatives Rose and Preston: AN ACT relating to utilities.

HB 861, by Representatives Preston and Rose: AN ACT relating to public utilities.

HB 862, by Representative LeMaster: AN ACT relating to engineers' and land surveyors' liens.

HJR 116, by Representatives Blandford, Worthington, Donnermeyer, Rapier and Stumbo: A JOINT RESOLUTION directing the Governor to establish an Economic Planning Commission.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: HB 820, HB 822, HB 828.

Banking and Insurance: HB 807.

Business Organizations and Professions: HB 814.

Cities: HB 818.

Education: HB 811.

Energy: HB 810, HB 821, SB 260.

Judiciary-Civil: HB 817, HB 827, HB 829.

Judiciary-Criminal: HB 805, HB 832.

Labor and Industry: HB 819.

Natural Resources and Environment: HB 809, HB 830.

State Government: HB 812, HB 813, HB 815, HB 816, HB 823, HB 824, HB 826, HB 831.

Transportation: HB 806.

Report of Committees

The Committee on Rules reported HB 224, HB 225, HB 329, HB 342, HB 427, HB 494, HB 523, HB 529, HB 537, HB 553, HB 561, HB 618, HB 627, and SB 207 have been posted for passage March 4, 1986.

The Committee on Rules reported the following bills have been recommitted:

Appropriations and Revenue: HB 425 and HB 536.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: HB 468, HB 495, HB 567, HB 744, HR 56, SB 60, SB 153, SB 154.

Cities: HB 693, HB 765, SB 47.

Health and Welfare: HB 25, HB 697, HJR 102.

Education: HB 764.

Appropriations and Revenue: HB 59, HB 648, HB 662.

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Health and Welfare: HB 341, HB 350

Calendar

HB 639, SB 54, SB 55, SB 56, SB 58, SB 59, SB 105, SB 106, HB 534, HB 574, HB 613, HB 642, HB 726 and HB 774 taken from the Calendar and ordered read at length for the second time. Representatives Stumbo moved that they be read by title only Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 28, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Amendment No. 1 to HB 28. Agreed.

Representative McElroy moved that HB 28, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 10. (See March 3, 1986, roll call on HB 28—Appendix A.)

HB 28, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which HB 28, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 518 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that HB 518 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 3, 1986, roll call on HB 518—Appendix A.)

HB 518 was passed and the title agreed to.

Representative White moved that the vote by which HB 518 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Amendment attached thereto, taken from Orders the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of the Committee Amendment No. 1 to HB 519. Agreed.

Representative White moved that HB 519, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 6. (See March 3, 1986, roll call on HB 519—Appendix A.)

HB 519, as amended, was passed and the title agreed to.

Representative White moved that the vote by which HB 519, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 611 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that HB 611 be passed.

On the roll call the vote was: Yeas 82, Nays 9. (See March 3, 1986, roll call on HB 611—Appendix A.)

HB 611 was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 611 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Floor Amendment No. 1 to HB 1.

On the roll call the vote was yeas 38—Bendl, Blandford, Blevins, F. Brown, M. Brown, Burch, Caldwell, Clapp, L. Clark. P. Clark, Clarke, Cline, Crupper, Curd, Curus, Deskins, Gedling, Gray, Hines, Holbrook, Johnson, T. Jones, Kerr, Long, McElroy, McNutt, Meyer, Moberly, Nett, O'Brien, Pearman, Rapier, Seum, Stone, Strong, Stumbo, Thomas, Yates. Nays 37—Bronger, Bruce, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Guenthner, J. Harper, K. Harper, Heleringer, R. Jones, Keith, Lear, Lefevers, Lile, Lyne, Mack, Maggard, McBee, Morris, Napier, Noland, Overstreet, Preston, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Siler, Smith, Stewart, Worthington.

Floor Amendment No. 1 to HB 1 was adopted.

Representative Cowan moved that HB 1, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 1 (See March 3, 1986, roll call on HB 1—Appendix A.)

HB 1, as amended, was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 1, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HCR 6, HB 163 and HB 52 had been examined and found correctly enrolled. Said resolution and bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:25 p.m.)

HCR 6, HB 163 and HB 52 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 585, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved the adoption of the Committee Amendment No. 1 to HB 585. Agreed.

Representative Handy moved that HB 585, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 5. (See March 3, 1986, roll call on HB 585—Appendix A.)

HB 585, as amended, was passed and the title agreed to.

Representative Handy moved that the vote by which HB 585, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 631, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Smith moved the adoption of the Committee Amendment No. 1 to HB 631. Agreed.

Representative Smith moved that HB 631, as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 2. (See March 3, 1986, roll call on HB 631—Appendix A.)

HB 631, as amended, was passed and the title agreed to.

Representative Smith moved that the vote by which HB 631, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 453 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that HB 453 be passed.

On the roll call the vote was: Yeas 76, Nays 15. (See March 3, 1986, roll call on HB 453—Appendix A.)

HB 453 was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 453 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 266, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to HB 266. Agreed.

Representative Long moved that **HB 266**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 75, Nays 12. (See March 3, 1986, roll call on HB 266—Appendix A.)

HB 266, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 266**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

The following meetings were announced:

Committee on Labor and Industry: Tuesday, March 4, 1986, 8:30 a.m., Room 104.

Committee on Education: Budget Review, March 4, 1986, 9:00 a.m.

Committee on Energy: On adjournment today, Room 104.

Committee on Rules: On adjournment, Reception Room.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to HB 551, by Representative O'Brien:

Amend printed copy of HB 551:

On page 2, line 3, by deleting subsection (5), lines 3 through 8, in its entirety.

Floor Amendment No. 6 to HB 64, by Representative Farrow:

Amend printed copy of HB 64 on page 2, after line 15, add the following:

Section 2. KRS 247.234 is amended to read as follows:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of one million dollars ($1,000,000) due to all bodily injuries or deaths per occurrence. Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to KRS 247.232 to 247.236 as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in KRS 247.990 and this section. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236.

(d) Revenue generated by this section shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall be paid into the general fund of this state.

[~~(e) KRS 247.232 to 247.236 shall not apply to amusement rides, attractions or property under the jurisdiction of the state fair board.~~]

Section 3. Whereas, it is necessary for owners of amusement rides and attractions to obtain insurance before the recreation season begins, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Floor Amendment No. 1 to HB 360, by Representative Long;

Amend printed copy of HB 360:

On page 1, line 6, after the period, by adding:

"*Provided, however, that an individual eighteen (18) years of age and under may be paid a wage rate equal to seventy-five percent (75%) of the minimum wage rate provided herein for a maximum period of four (4) months in each year.*"

Floor Amendment No. 2 to the Committee Substitute to HB 126, by Representative Crupper:

Amend printed copy of Committee Substitute for HB 126:

on page 15, line 16, after the "," by placing brackets around the word "fifteen and six-tenths" and striking through the same and inserting the word "*eleven*" in lieu thereof.

on page 15, line 17, after the word "percent" by placing brackets around "(15.6%)" and striking through the same and inserting "*(11%)*" in lieu thereof.

on page 15, line 18, after the "138.220," to insert the following: "*138.460,*".

on page 15, line 18, after the "," to insert "*186.050(1) and (2)*"

on page 15, line 19, by removing the brackets around the word "and" and deleting the strikethroughs.

on page 15, line 19-21, after "234.320" by deleting the underlined language.

on page 16, line 4, after the "," by placing brackets around the words "six and seven tenths" and striking through the same and inserting the words "*four and five-tenths*" in lieu thereof.

on page 16, line 5, by placing brackets around "(6.7%)" and striking through same and inserting "*(4.5%)*" in lieu thereof.

on page 16, line 6, after the "138.220," to insert the following "*138.460,*".

on page 16, line 7, after 138.660 by placing brackets around "(1) and (2)," and striking through the same.

on page 16, line 7, after the "," by inserting "*186.050(1) and (2)*".

on page 16, line 7, by removing the brackets from around the word "and" and deleting the strikethroughs.

on page 16, line 7-9, after "*234.320*" by deleting the underlined language.

Representative Farrow requested that he be recorded as voting "yea" on **HB 588**, "yea" on **HB 238**, "nay" on **HB 359**, "yea" on **HB 600**, "yea" on **HB 75**, "yea" on **HB 120**, "nay" on **HB 622**, "nay" on **HB 451**. Agreed.

Representative Freibert requested that she be recorded as voting "nay" on **HB 451**, "yea" on **HB 588**, "nay" on **HB 231**, "yea" on **HB 238**, "yea" on **HB 492**, "yea" on **HB 552**, "yea" on **HB 600**, "yea" on **HB 604**, "yea" on **HB 622**, "yea" on **HB 634**, "yea" on **HB 659**, "yea" on **HCR 62**, "yea" on **HCR 66**, "yea" on **HJR 78**, "nay" on **SB 28**, "yea" on **SB 156**, "yea" on **HB 75**, "yea" on **HB 500**, "yea" on **HB 120**. Agreed.

Representative Lear requested that he be recorded as voting "yea" on HB 1. Agreed.

Representative Ellington requested that he be recorded as voting "yea" on HB 518. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 863, by Representative Dawahare: AN ACT relating to personnel in the office of the property valuation administrator.

HB 864, by Representative Clarke: AN ACT relating to liability insurance.

HB 865, by Representative Pearman: AN ACT relating to highways.

HB 866, by Representative Williams: AN ACT relating to the state life insurance program for school employes.

HB 867, by Representatives Cyrus and Holloway: AN ACT relating to unemployment insurance.

HB 868, by Representative Burch: AN ACT relating to youth employment and making an appropriation therefor.

HB 869, by Representatives Rose, Little, Stumbo and Deskins: AN ACT relating to coal mining.

HB 870, by Representative Richards: AN ACT relating to traffic regulations.

HB 871, by Representative T. Jones: AN ACT relating to water pollution.

HB 872, by Representative Barrows: AN ACT relating to suspension or expulsion of pupils.

HB 873, by Representatives Hancock, Maggard and Ford: AN ACT relating to Kentucky transportation center.

HB 874, by Representative Richards: AN ACT relating to labor/management relations.

HB 875, by Representative McElroy: AN ACT relating to agriculture.

HB 876, by Representative Gray: AN ACT relating to occupational safety and health of employes.

HB 877, by Representative Lear: AN ACT relating to insurance.

HB 878, by Representative Lear: AN ACT relating to privatization of drinking water, water and wastewater facilities by cities and other political subdivisions.

HB 879, by Representative Lear: AN ACT relating to fees of county clerks.

HB 880, by Representative Kerr: AN ACT relating to public health.

HB 881, by Representatives Scorsone, Arnold and Reinhardt: AN ACT relating to motor vehicle registration plates.

HB 882, by Representative B. Richardson: AN ACT relating to Lieutenant Governor.

HB 883, by Representatives Head, Brinkley, Stone, Rose, and Maggard: AN ACT relating to surface coal mining.

HCR 117, by Representative Pearman: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

HR 118, by Representative Geunthner: A RESOLUTION adjourning the House of Representatives in honor of the Sam Stockard Band of Louisville, Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: HB 348, HB 766.

State Government: SB 245.

Judiciary-Criminal: HB 779, HB 741.

Business Organizations and Professions: HB 808, HB 794.

Banking and Insurance: HB 795, HB 799.

Counties and Special Districts: HB 630.

Representative Guenthner moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Guenthner moved the adoption of the following HR 118:

HR 118, A RESOLUTION adjourning the House of Representatives in honor of the Sam Stockard Band of Louisville, Kentucky.

WHEREAS, Sam Stockard is a gifted and energetic composer and musician who has performed for over twenty years; and

WHEREAS, Sam Stockard has distinguished himself in the music industry as a talented songwriter and bandleader; and

WHEREAS, Sam Stockard has entertained tens of thousands of his fellow Kentuckians; and

WHEREAS, Sam Stockard leads his band on saxaphone with band members Jim Baugher playing the bass guitar, Rodney Wurtele playing the keyboards and Eddie Baird accompanying on the drums; and

WHEREAS, Sam Stockard and his band members Jim Baugher, Rodney Wurtele and Eddie Baird have served as good-will ambassadors of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this body proudly honor and commend Sam Stockard, Jim Baugher, Rodney Wurtele and Eddie Baird for their immeasurable contributions to the music industry and to the citizens of this great state.

Section 2. That the House hails Sam Stockard, Jim Baugher, Rodney Wurtele and Eddie Baird to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Monday, March 3, 1986, it does so in honor of the Sam Stockard Band.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to each member of the Sam Stockard Band through State Representative Louie Guenthner.

his day, Monday, March 3, 1986, it does so in honor of the Sam Stockard Band.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to each member of the Sam Stockard Band through State Representative Louie Guenthner.

HR 118 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative P. Clark, HB 245; Representative Cline, HB 453; Representative L. Clark, HB 825, Representative Caldwell, HB 453; Representative Ford, HB 453; Representative K. Harper, HB 654; Representative Head, HB 790; Representative Lefevers, HCR 25, HB 96, HB 109, HB 245, HB 261; Representative Lile, HB 316, Representative Noland, HB 261, Representative Seum, HB 588; Representative Williams, HB 245.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 4, 1986.

On the roll call the vote was yeas 80—Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, F. Brown, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Johnson, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Preston, Priddy, Pritchett, Reinhardt, Richards, P. Richardson, Riner, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, White, Williams, Worthington, Yates. Nays 5—Bronger, Heleringer, Holbrook, Holloway, LeMaster.

The motion to adjourn was adopted.

TUESDAY, MARCH 4, 1986

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Robert Wood, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Turner.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 3, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 210, SB 249, SB 278, HB 418 with Senate Amendment, HCR 40.

Introduction of Bills and Resolutions

HB 884, by Representatives Donnermeyer and Thomas: AN ACT relating to alcoholic beverages.

HB 885, by Representative Stumbo: AN ACT authorizing the procurement of liability insurance for the protection of state officers and employes.

HB 886, by Representatives Cline and Stumbo: AN ACT relating to reorganization of the department of education.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: SB 242.

Appropriations and Revenue: HB 834, HB 835, HB 842, HB 843, HB 844, HB 848, HB 850, HB 854, SB 214.

Business Organizations and Professions: HB 837, SB 38.

Cities: HB 833, SB 251, SB 264, SB 265, SB 284, SB 302, SB 303, SB 304, SB 312, SB 313.

Counties and Special Districts: HB 845, HB 846, HB 849.

Education: HB 840, HCR 114, HJR 115.

Health and Welfare: HB 853.

Judiciary-Civil: HB 836, SB 244.

Judiciary-Criminal: HB 852.

Natural Resources and Environment: HB 838, HB 839;

State Government: HB 841, HB 851, SB 255.

Transportation: HB 847.

Posting of Bills for Consideration

The Clerk announced the following Bills have been posted for committee consideration:

Agriculture and Small Business: HB 797.

Cities: HB 784.

State Government: HB 652, HB 704, SB 159.

Report of Committees

The Committee on Rules reported HB 46, HB 152, HB 214, HB 215, HB 219, HB 221, HB 408, HB 409, HB 410, HB 482, HB 517, HB 568, HB 626, HB 672, HB 682, HCR 75, HJR 81, SB 50, SB 52, HB 339, HB 738 and SB 208 have been posted for passage March 5, 1986.

The Committee on Appropriations and Revenue reported HB 149 with Committee Amendments attached thereto, HB 205 with Committee Amendments attached thereto, and HB 298 with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to HB 149 is as follows:

Amend printed copy of HB 149:

On page 2, on line 19, by adding after the word "*partnerships*", and before the word "The", the following: "*The fund shall give preference to Kentucky based entities*".

The Committee Amendment No. 2 to HB 149 is as follows:

Amend printed copy of HB 149:

On page 2, after line 6, by adding the following:

"*(7) "Small business and industry" means a Kentucky based company, with capitalization of less than five hundred thousand dollars ($500,000), anticipated to employe less than fifty (50) people.*"

and on line 22, by bracketing ([]) and striking through the words "is unlimited" and inserting in lieu thereof, "*less than five hundred thousand dollars ($500,000)*".

The Committee Amendment No. 2 to HB 205 is as follows:

Amend printed copy of HB 205:

On page 1, line 14, by deleting "*fifty dollars ($50)*" and inserting in lieu thereof "*forty dollars ($40)*".

The Committee on Appropriations and Revenue reported HB 245 with Committee Substitute and Committee Amendment attached thereto, HB 507, HB 655, HB 736 with Committee Substitute attached thereto, and SB 182 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 245, AN ACT relating to property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the state treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the state treasury monthly as approved by the department of revenue as provided in KRS 132.590 (2).

(3) As an elected county official who performs vital services for the state, the property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the state treasury in monthly installments of three hundred dollars ($300). This expense allowance shall be in addition to other lawful expense payments, shall be in payment of operating expenses of the office, and shall not be considered as part of the property valuation administrator's compensation. Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

The Committee Substitute to HB 245 is as follows:

HB 245, AN ACT relating to property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the state treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted by the revenue cabinet. Any property valuation administrator failing to meet the cabinet's requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

Section 2. To carry out the purposes of this Act, there is appropriated to the revenue cabinet out of the general expenditure fund in the state treasury the sum of $432,000 for the fiscal year ending June 30, 1987 and $432,000 for the fiscal year ending June 30, 1988.

The Committee Amendment No. 1 to the Committee Substitute to HB 245 is as follows:

Amend printed copy of Committee Substitute to HB 245:

By deleting Section 2 in its entirety.

HB 507, AN ACT relating to budget and financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.040 is amended to read as follows:

(1) On or before April 1 of each odd-numbered year, representatives designated by the governor, the chief justice and the legislative research commission for their respective branches shall propose drafts of uniform forms to be used by all budget units in submitting their budget estimates, requests and recommendations, and shall recommend to the legislative research commission such rules and regulations deemed necessary for the preparation of such budget estimates, requests and recommendations.

(2) On or before July 1 of each odd-numbered year, the legislative research commission shall prescribe uniform forms, records and instructions to be used by branch budget units. *Included in such forms shall be a section requiring budget units to identify the amount of funds to be spent on agency publications.*

(3) On or before September 1 of each odd-numbered year, the finance and administration cabinet shall supply each branch of government with at least three (3) complete sets of the prescribed uniform forms and instructions for the preparation of estimates and statements, and one (1) copy of the complete statement of the

expenditures of each budget unit of the branch to aid each branch of government in preparing its estimates and statements.

(4) Upon request, the department of finance shall provide such additional assistance to each branch of government as may be required.

HB 655, AN ACT relating to taxpayer appeals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment made by the property valuation administrator, *regardless of the ownership of the assessed property,* may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating to the county clerk the taxpayer's opinion of the fair cash value of the property within the twelve-day period in which the inspection is held. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the revenue cabinet, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase.

(2) Any property owner who has listed his property with the property valuation administrator at its fair cash value *and who does not elect to exercise the right of appeal as provided for in subsection (1) of this section,* [~~likewise~~] may ask the county board of assessment appeals to review the assessments of properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3)[~~(2)~~] The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(4)[~~(3)~~] The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(5)[~~(4)~~] The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(6)[~~(5)~~] No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(7)[~~(6)~~] Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky board of tax appeals.

(8)[~~(7)~~] It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event

the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 2. KRS 131.340 is amended to read as follows:

(1) The Kentucky board of tax appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of any agency of state or county government affecting revenue and taxation.

(2) Any party, including the attorney general, on behalf of the Commonwealth, aggrieved by any ruling, order or determination of any state or county agency charged with the administration of any taxing or licensing measure, *and all persons entitled to execute an appeal to the county board of assessment appeals pursuant to KRS 133.120(1),* may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the receipt by such aggrieved party of the agency's ruling, order, or determination.

(3) In the event the revenue cabinet is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the cabinet and prosecutes an appeal to the Kentucky board of tax appeals as authorized herein, the secretary of revenue shall, within twenty (20) days, certify in writing to the Kentucky board of tax appeals the assessment recommended.

(4) The Kentucky board of tax appeals shall immediately forward copies of the certification to the parties to the appeal. Such assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 3. KRS 133.170 is amended to read as follows:

(1) When the revenue cabinet has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky board of tax appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the cabinet's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky board of tax appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the cabinet's action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the revenue cabinet and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the revenue cabinet and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky board of tax appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120*(6)*[~~(5)~~] shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the revenue cabinet under the provisions of KRS 133.150.

HB 736, AN ACT relating to property taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.245 is amended to read as follows:

(1) [~~Notwithstanding any statutory provisions to the contrary, no county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced from application of the preceding year's tax rate to the preceding year's assessment.~~] The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) [~~The tax rate that a fiscal court could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced by it;~~

~~(b)~~] The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b)[~~(c)~~] The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the revenue cabinet upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for such testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 2. KRS 68.248 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a county fiscal court will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the county fiscal court may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a county fiscal court applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective county fiscal court~~].

(2) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5) and to the recall provisions of KRS 68.245(6).

Section 3. KRS 68.540 is amended to read as follows:

(1) If a majority of those voting on the question of any public service program approve such particular public service program, such particular public service program shall be adopted. The county clerk shall cause the question to appear before the voters, and the election results shall be canvassed and certified by the county board of election commissioners.

(2) If any public service program is approved by the electorate as herein provided, the specific tax so approved by the qualified voters in respect to such specific public service program shall be levied by the fiscal court in the manner provided by law, and such tax revenues shall be devoted solely to the public service program for which such specific taxes are levied. All such voted taxes shall be in addition to all other taxes otherwise authorized and provided by law[~~, and shall be deemed to be voted levies pursuant to KRS 68.245(1) not otherwise subject to the limitations contained therein~~].

Section 4. KRS 132.023 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no taxing district other than the state, counties, school districts, cities and urban-county governments shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment, except for a taxing district which has been authorized to levy a tax and has not yet levied any such tax rate. In which case, the district can levy a tax rate, the maximum which will not produce more revenue than would have been produced by application of the maximum authorized tax rate in the year authorized to that year's assessments.~~

~~(2)~~] No taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) A taxing district, other than the state, counties, school districts, cities, and urban-county governments, proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 5. KRS 132.024 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments~~].

(2) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023(3) and to the recall provisions of KRS 132.023(4).

Section 6. KRS 132.027 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no city or urban-county government shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no city or urban-county government shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment.~~

~~(2)~~] No city or urban-county government shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) Cities or urban-county governments proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the city or urban-county government has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 7. KRS 132.029 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a city or urban-county government will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the city or urban-county government may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a city or urban-county government applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective city or urban-county government~~].

(2) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027(3) and to the recall provisions of KRS 132.027(4).

Section 8. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) [~~(a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection (1) of KRS 157.564. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (1) of KRS 157.564.~~

~~(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.~~

~~In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.~~

~~(3)~~] No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate [~~within the limits imposed in subsection (2) of this section~~] which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (1) of KRS 157.564, until the district board of education has complied with the provisions of subsection *(9)* [~~(10)~~] of this section.

(3)[~~(4)~~] The superintendent of public instruction shall certify to each district board of education, by June 30 of each year, the following:

(a) [~~The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;~~

~~(b)~~] The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(b)[~~(c)~~] The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(4)[~~(5)~~] Upon completion of action on property assessment data the department of revenue shall submit to the superintendent of public instruction, certified property assessment data as required in KRS 133.125.

(5)[~~(6)~~] Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the state board of education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(6)[~~(7)~~] The budget shall be disapproved by the state board of education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval.

In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the state board of education for its final approval.

(7)[~~(8)~~] If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the state board of education.

(8)[~~(9)~~] Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(9)[~~(10)~~] (a) A district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate [~~within the limits of subsection (2) of this section~~] which *exceeds* [~~exceed~~] the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for such testimony.

(10)[~~(11)~~] (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection (1) of KRS 157.564, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection (1) of KRS 157.564, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 9. KRS 160.473 is amended to read as follows:

(1) In the event that a general tax rate, voted general tax rate, or voted building tax rate applicable to real

property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the general tax rate, voted general tax rate, or voted building tax rate levied by the district board of education applicable to personal property exceed the prior year general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education~~].

(2) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

Section 10. The following KRS sections are repealed:

68.243 Inclusion of poll tax revenue in county budget.

68.247 Tax on motor vehicles and trailers to be used in determining maximum permissible county revenue.

68.249 Cumulative percentage increase in revenue from personal property tax by county for 1982-83 only—Limit—Tax rate not subject to public hearing and recall.

132.025 Cumulative increase for 1982-83 only by taxing district—Limit—Public hearing and recall not applicable.

132.0291 Cumulative increase for 1982-83 only by a city or urban-county government—Limit—Public hearing and recall not applicable.

160.474 Cumulative increase for 1982-83 only—Limit—Public hearing and recall not applicable.

Section 11. The provisions of this Act shall be effective for tax years with assessment dates on or after January 1, 1987.

The Committee Substitute to HB 736 is as follows:

HB 736, AN ACT relating to property taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.245 is amended to read as follows:

(1) [~~Notwithstanding any statutory provisions to the contrary, no county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced from application of the preceding year's tax rate to the preceding year's assessment.~~] The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) [~~The tax rate that a fiscal court could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced by it;~~

~~(b)~~] The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b)[~~(c)~~] The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the revenue cabinet upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for such testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, levied by an action of a county fiscal court which will produce revenue

from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of any such county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 2. KRS 68.248 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a county fiscal court will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the county fiscal court may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a county fiscal court applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective county fiscal court~~].

(2) The tax rate applicable to personal property levied by a county fiscal court under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 68.245(5) and to the recall provisions of KRS 68.245(6).

Section 3. KRS 68.510 is amended to read as follows:

[~~The general assembly of the commonwealth of Kentucky hereby finds and determines as a legislative finding of fact that as a result of "rollback" legislation codified as KRS 68.245, current income and revenues of counties in Kentucky have become relatively stabilized, and in many counties, particularly those containing urban areas, such income and revenues are inadequate to enable such counties to provide to the citizens thereof vital and necessary public service programs, even though the citizens of such counties may favor such programs and may favor the taxation necessary to finance them, within constitutional limits.~~] It is the intent of KRS 68.520 to 68.550 to provide to counties within the Commonwealth of Kentucky, subject to the provisions for election set forth in KRS 68.520 to 68.550, additional revenues for public service programs through voted levies of ad valorem taxes and license taxes.

Section 4. KRS 68.540 is amended to read as follows:

(1) If a majority of those voting on the question of any public service program approve such particular public service program, such particular public service program shall be adopted. The county clerk shall cause the question to appear before the voters, and the election results shall be canvassed and certified by the county board of election commissioners.

(2) If any public service program is approved by the electorate as herein provided, the specific tax so approved by the qualified voters in respect to such specific public service program shall be levied by the fiscal court in the manner provided by law, and such tax revenues shall be devoted solely to the public service program for which such specific taxes are levied. All such voted taxes shall be in addition to all other taxes otherwise authorized and provided by law[~~, and shall be deemed to be voted levies pursuant to KRS 68.245(1) not otherwise subject to the limitations contained therein~~].

Section 5. KRS 132.023 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no taxing district other than the state, counties, school districts, cities and urban-county governments shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment, except for a taxing district which has been authorized to levy a tax and has not yet levied any such tax rate. In which case, the district can levy a tax rate, the maximum which will not produce more revenue than would have been produced by application of the maximum authorized tax rate in the year authorized to that year's assessments.~~

~~(2)~~] No taxing district, other than the state, counties, school districts, cities and urban-county governments, shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) A taxing district, other than the state, counties, school districts, cities, and urban-county governments, proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published at least twice in two consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities and urban-county governments which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing

district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state, counties, school districts, cities and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 6. KRS 132.024 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the taxing district, other than the state, counties, school districts, cities and urban-county governments, may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities and urban-county governments~~].

(2) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities and urban-county governments, under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023*(2)*[~~(3)~~] and to the recall provisions of KRS 132.023*(3)*[~~(4)~~].

Section 7. KRS 132.027 is amended to read as follows:

(1) [~~(a) Notwithstanding any statutory provisions to the contrary, no city or urban-county government shall levy a tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the maximum tax rate that could have been levied in 1978-79 to the 1978-79 assessment.~~

~~(b) In succeeding years, no city or urban-county government shall levy a tax rate which will produce more revenue, exclusive of revenue from net assessment growth, than would be produced by application of the tax rate that was levied in the preceding year to the preceding year's assessment.~~

~~(2)~~] No city or urban-county government shall levy a tax rate [~~within the limits imposed in subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 until the city or urban-county government has complied with the provisions of subsection *(2)* [~~(3)~~] of this section.

(2)[~~(3)~~] (a) Cities or urban-county governments proposing to levy a tax rate [~~within the limits of subsection (1) of this section~~] which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The city or urban-county government shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;

2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;

3. The compensating tax rate and the revenue expected from it;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained therein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the taxing district, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The taxing district may set reasonable time limits for such testimony.

(3)[~~(4)~~] (a) That portion of a tax rate levied by an action of a city or urban-county government which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The city or urban-county government shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the city or urban-county government has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall, and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the taxing district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 8. KRS 132.029 is amended to read as follows:

(1) In the event that the tax rate applicable to real property levied by a city or urban-county government will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the city or urban-county government may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the tax rate levied by a city or urban-county government applicable to personal property exceed the prior year tax rate applicable to personal property levied by the respective city or urban-county government~~].

(2) The tax rate applicable to personal property levied by a city or urban-county government under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.027*(2)*[~~(3)~~] and to the recall provisions of KRS 132.027*(3)*[~~(4)~~].

Section 9. KRS 157.440 is amended to read as follows:

(1) [~~A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that,~~] Upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question *as to* whether a *special school tax* rate *as requested by the board* [~~which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470~~] shall be levied. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

(2) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (3) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(3) Notwithstanding the limitations contained in subsection (2) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapter 162.

(4) The superintendent of public instruction shall certify the compensating tax rate to the levying authorities.

Section 10. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) [~~(a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection (1) of KRS 157.564. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (1) of KRS 157.564.~~

~~(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . . ," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.~~

~~In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.~~

~~(3)~~] No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate [~~within the limits imposed in subsection (2) of this section~~] which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (1) of KRS 157.564, until the district board of education has complied with the provisions of subsection *(9)* [~~(10)~~] of this section.

(3)[~~(4)~~] The superintendent of public instruction shall certify to each district board of education, by June 30 of each year, the following:

(a) [~~The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;~~

~~(b)~~] The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(b)[~~(c)~~] The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(4)[~~(5)~~] Upon completion of action on property assessment data the department of revenue shall submit to the superintendent of public instruction, certified property assessment data as required in KRS 133.125.

(5)[~~(6)~~] Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the state board of education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(6)[~~(7)~~] The budget shall be disapproved by the state board of education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval.

In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the state board of education for its final approval.

(7)[~~(8)~~] If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the state board of education.

(8)[~~(9)~~] Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(9)[~~(10)~~] (a) A district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate [~~within the limits of subsection (2) of this section~~] which *exceeds* [~~exceed~~] the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for such testimony.

(10)[~~(11)~~] (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection (1) of KRS 157.564, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection (1) of KRS 157.564, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 11. KRS 160.473 is amended to read as follows:

(1) In the event that a general tax rate, voted general tax rate, or voted building tax rate applicable to real

property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property[~~; however, in no event shall the general tax rate, voted general tax rate, or voted building tax rate levied by the district board of education applicable to personal property exceed the prior year general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education~~].

(2) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470*(9)*[~~(10)~~] and to the recall provisions of KRS 160.470*(10)*[~~(11)~~].

Section 12. KRS 160.475 is amended to read as follows:

(1) [~~Except as otherwise provided in KRS 160.470(2), 160.476(4) and 160.477(6)~~] The ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not more than one dollar and fifty cents ($1.50) annually on each one hundred dollars ($100) of property subject to local taxation.

(2) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

Section 13. KRS 160.476 is amended to read as follows:

(1) The board of education of any district may, in addition to other taxes for school purposes, levy not less than four (4) cents nor more than twenty (20) cents on each one hundred dollars ($100) valuation of property subject to local taxation, to provide a special fund for the purchase of sites for school buildings and physical education and athletic facilities, for the erection and complete equipping of school buildings and physical education and athletic facilities, and for the major alteration, enlargement and complete equipping of existing buildings, provided, however, that such tax shall *be a part of the general tax rate levied by the district board of education and shall be subject to the provisions of KRS 160.470* [~~come within the maximum school tax levy provided by KRS 160.470~~]. In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and all or any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(2) The special fund provided for herein shall be kept in a separate account designated as "school building fund." The fund shall be kept in a depository selected by the board of education, or invested in bonds of the United States, of this state, or county or municipality in this state, provided, however, that such investments shall be approved by the state board of education.

(3) All expenditures from such fund shall be made solely for the purposes enumerated herein and shall be made in accordance with the school laws of the state at such times as the board of education determines. The board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state department of education.

[~~(4) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010. The superintendent of public instruction shall certify the compensating tax rate to the district board of education.~~]

Section 14. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the county board of elections shall submit to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five (5) cents nor more than fifty (50) cents as requested by the board shall be levied on each $100 of property subject to local taxation. [~~This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470.~~] The income from the tax shall be used for the purchase or lease of school sites and buildings and physical education and athletic facilities, for the erection and complete equipping of new school buildings and physical education and athletic facilities, for the major alteration, enlargement and complete equipping of existing buildings, and physical education and athletic facilities, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school improvements, and

for the purpose of financing any program for the acquisition, improvement, or building of school improvements. The question shall be so framed that the voter may by his vote answer "for" or "against."

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county board of elections, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall, when the next tax rate for the district is fixed, levy the special rate specified for the school building fund [~~in addition to the levy provided by subsection (2) of KRS 160.470~~].

(2) There may be included, *within* [~~in~~] the *general tax rate levied by the district board of education* [~~maximum levy provided for in subsection (2) of KRS 160.470~~], a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided, however, that such investment shall be approved by the state board for elementary and secondary education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state board for elementary and secondary education.

(6) [~~Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.~~

~~(7) Notwithstanding the limitations contained in subsection (6) of this section~~] No tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapters 58 and 162.

Section 15. The following KRS sections are repealed:

68.243 Inclusion of poll tax revenue in county budget.

68.247 Tax on motor vehicles and trailers to be used in determining maximum permissible county revenue.

68.249 Cumulative percentage increase in revenue from personal property tax by county for 1982-83 only—Limit—Tax rate not subject to public hearing and recall.

68.480 Courthouse tax—Counties containing a city of the second class.

132.025 Cumulative increase for 1982-83 only by taxing district—Limit—Public hearing and recall not applicable.

132.0291 Cumulative increase for 1982-83 only by a city or urban-county government—Limit—Public hearing and recall not applicable.

160.474 Cumulative increase for 1982-83 only—Limit—Public hearing and recall not applicable.

Section 16. The provisions of this Act shall be effective for tax years with assessment dates on or after January 1, 1987.

SB 182, AN ACT relating to compensation of employes of the General Assembly, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.230 is amended to read as follows:

Employes of the general assembly shall receive a per diem as follows: chief clerk, *seventy-five* [~~seventy~~] dollars *($75)* [~~($70)~~]; assistant clerk, *sixty-five* [~~sixty~~] dollars *($65)* [~~($60)~~]; enrolling clerk, *sixty* [~~fifty-five~~] dollars *($60)* [~~($55)~~]; sergeant-at-arms, *fifty* [~~forty-five~~] dollars *($50)* [~~($45)~~]; doorkeeper, *forty-seven* [~~forty-five~~] dollars *($47)* [~~($45)~~]; janitors, *thirty-seven* [~~thirty-five~~] dollars *($37)* [~~($35)~~]; cloakroom keeper, *thirty-seven* [~~thirty-five~~] dollars *($37)* [~~($35)~~]; pages, *twenty* [~~seventeen~~] dollars *($20)* [~~($17)~~] each.

Section 2. There is hereby appropriated for fiscal year 1985-86 $8,500 from the General Fund to the legislative sessions account.

Section 3. The provisions of this Act relative to the compensation of the employes of the Senate and the House of Representatives shall be effective and shall apply to the present session of the General Assembly and the per diem shall be paid for the one thousand nine hundred and eighty-six session to said employes in the amounts named in KRS 6.230, beginning January seventh, one thousand nine hundred and eighty-six, provided that there shall be deducted from the amount due said employes the sum already paid them for services rendered during the one thousand nine hundred and eighty-six session.

Section 4. Whereas, the employes of the General Assembly have rendered faithful and efficient services during the present session, and their per diem has remained constant over several years, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Banking and Insurance reported HB 183 with Committee Amendment attached thereto, HB 753, HB 760 with Committee Amendment attached thereto, HB 769, SB 76, and SB 86 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 183, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing individual health insurance policies in this state shall pay a claim for any covered services within thirty (30) working days of receipt of due written proof of loss. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of ten percent (10%) per annum on the amount of the covered service paid by the insurer.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing any group insurance or blanket health insurance policy or contract in this state shall pay a claim for any covered services within thirty (30) working days of receipt of due written proof of loss. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of ten percent (10%) per annum on the amount of the covered service paid by the insurer.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All nonprofit hospital, medical-surgical, dental and health service corporations issuing policies in this state shall pay a claim for any covered services within thirty (30) working days of receipt of due written proof of loss. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of ten percent (10%) per annum on the amount of the covered service paid by the insurer.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations issuing policies in this state shall pay a claim for any covered services within thirty (30) working days of receipt of due written proof of loss. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of ten percent (10%) per annum on the amount of the covered service paid by the insurer.

The Committee Amendment No. 1 to HB 183 is as follows:

Amend printed copy of HB 183:

On page 1, line 10, and on page 1, line 20, and on page 2, line 9, and on page 2, line 19, after "*insurer.*" by adding "*For the purposes of this section, "proof of loss" means the submission to the insurer of all forms, documents, reports, and other information necessary for the insurer to make a decision on the claim.*"

HB 753, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-320 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits of liability coverage, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided that the named insured shall have the right to reject in writing such coverage; and provided further that, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For purposes of this coverage the term "underinsured motorist coverage" shall, subject to the terms and conditions of such coverage, be coverage whereby the insurance company agrees to pay its own insured for uncompensated damages on account of injury due to a motor vehicle accident because the amount of the damages exceed the liability policy limits of the party at fault to the extent of the underinsured policy limits of the underinsured.

(3) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurance carrier shall be subrogated to any amounts it so pays and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays [~~Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays~~].

HB 760, AN ACT relating to industrial loan companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 291.460 is amended to read as follows:

An industrial loan company organized under KRS 291.410 to 291.600 may:

(1) Lend money and receive interest therefor at a rate of seven dollars per one hundred dollars per annum of the principal amount of the loan not exceeding seven thousand five hundred dollars and require and receive uniform weekly or monthly installment payments. The amount of interest computed as provided in KRS 291.410 to 291.600 may be charged or received in advance or may be added to the principal amount of the loan. Such loans shall be repayable in substantially equal installments over a period not exceeding five years and thirty-two days, and the principal amount of the loan, (excluding charges) shall not exceed seven thousand five hundred dollars.

(2) Sell or negotiate bonds, notes and certificates of investment for the payment of money at any time, either fixed or uncertain, and receive payments therefor in installments or otherwise; provided, that nothing herein contained shall be construed to create any liability on demand. No certificate holder making loans under KRS 291.410 to 291.600 shall directly or indirectly advertise for or accept deposits, demand or otherwise, except an industrial loan company organized under KRS 291.410 to 291.600 may advertise the sale of certificates of investment as authorized under KRS 291.410 to 291.600. *Certificates of investment and any advertisement for the sale of certificates of investment shall clearly state in bold type on the certificate or in the advertisement that: "THIS CERTIFICATE OF INVESTMENT IS NOT INSURED BY ANY STATE OR FEDERAL GOVERNMENT AGENCY."*

(3) Charge for a loan made pursuant to this section one dollar for each fifty dollars or fraction thereof loaned for expenses, including any examination or investigation of the character and circumstances of the borrower, co-maker or surety, and the drawing and taking acknowledgment of necessary papers or other expenses incurred in making the loan. Such charge shall be permitted only on the first two thousand dollars loaned. No charge shall be collected unless a loan has been made as a result of such examination or investigation.

(4) An industrial loan company organized under KRS 291.410 to 291.600 in addition to its powers heretofore granted shall be authorized to charge interest on loans or extensions of credit in the same manner and at the same rate as is permitted by KRS 287.215 for banks or trust companies or combined banks and trust companies, and provided further that the principal amount of such loan or extension of credit exclusive of interest or other charges shall not exceed ten thousand dollars ($10,000).

The Committee Amendment No. 1 to HB 760 is as follows:

Amend printed copy of HB 760:

On page 3, after line 3 by adding:

"Section 2. KRS 291.595, Advertising statement required when institution not fully insured, is repealed."

HB 769, AN ACT relating to insurance.

WHEREAS, liability insurance and reinsurance carriers doing business in the Commonwealth of Kentucky have, without apparent justification, been cancelling policies, refusing to write policies and charging exorbitant premiums; and

WHEREAS, municipalities, professionals, day care centers and small businesses have suffered greatly from the premium fluctuations caused by uncontrolled investment cycles of the insurance and reinsurance industries; and

WHEREAS, the legislature finds that the lack of a stable liability insurance market is against the best interests of insurance customers, and more importantly against the best interests of all citizens at risk of injury; and

WHEREAS, the inability of the Department of Insurance to aid the legislature in dissecting the current liability insurance crisis in Kentucky requires that new information be collected and made available by and for the legislature; and

WHEREAS, the legislature finds and declares that significant reforms in the current requirements must be enacted for businesses selling liability insurance in the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer authorized to write a policy of general liability, workers' compensation, products liability, municipal liability, professional errors and omissions, professional liability, medical malpractice and automobile liability insurance in this state shall transmit the following information to the legislative research commission, itemized for each line of insurance, and where appropriate, subline by subline, based on both its statewide and on its nationwide experience. This information shall be in a direct basis prior to reinsurance on its writings of general liability, workers' compensation, products liability, municipal liability, professional errors and omissions, professional liability, medical malpractice and automobile liability insurance writings and shall be submitted to the legislative research commission by March 1, 1987, for the fiscal year ending December 31, 1986, and by March 1 of each succeeding year for the fiscal year ending on December 31 of the preceding year. The information shall include:

(a) Premiums written;

(b) Premiums earned;

(c) Dividends paid or credited to policyholders;

(d) The dollar amount of claims paid;

(e) Incurred claims, not including claims incurred but not reported;

(f) Claims closed without payment, and the amount reserved for such claims;

(g) Losses paid and losses paid as a percentage of the amount reserved for such losses;

(h) Allocated loss adjustment expenses, and the ratio of allocated loss adjustment expenses to losses paid;

(i) Unallocated loss adjustment expenses and the ratio of unallocated loss adjustment expenses to losses paid;

(j) The total of losses paid and unallocated and allocated loss adjustment expenses;

(k) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(l) Loss reserves for all claims except claims incurred but not reported;

(m) Reserves for claims incurred but not reported;

(n) Net investment gain or loss and other income gain or loss allocated to general liability, workers' compensation, products liability, municipal liability, professional errors and omissions, professional liability, medical malpractice and automobile liability lines according to the allocation formula used in the annual insurance expense exhibit;

(o) Underwriting income or loss;

(p) Actual expenses in detail, including, but not limited to, loss adjustment expense, commissions, general expense, and advertising, home office, and defense costs;

(q) Claims settled after a suit was filed;

(r) Claims paid based on judgment;

(s) Judgments appealed by the insurer, together with the total results of such appeals;

(t) The number of claims outstanding as of December 31 of each year;

(u) The total amount of losses unpaid as of December 31 of each year;

(v) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year; and

(w) The total of losses paid and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year.

(2) (a) The legislative research commission shall provide all of the information provided pursuant to subsection (1) of this section to the committee on banking and insurance, and shall provide a summary of this information to each member of the Kentucky general assembly at least thirty (30) days prior to the commencement of each regular session of the Kentucky general assembly.

(b) All reports filed by insurers under subsection (1) of this section shall be made accessible to the consumer protection division of the office of the attorney general.

(c) All reports filed by insurers under subsection (1) of this section shall be considered public information, with the exception of the company name so as not to conflict with the open competition provisions in KRS 304.13-011 to 304.13-320.

(3) Any insurer which withholds the information required by this section shall be guilty of a Class A misdemeanor.

(4) This section shall be known as the "sunshine law."

Section 2. The following KRS section is repealed:

304.3-310 Annual report on workmen's compensation experience by insurers—Departmental summary of information—Review of rates—Order for new rate schedule filings.

SB 76, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan, or

b. To any policy insuring more than four (4) automobiles, or

c. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage.

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this section be considered as if written for a policy period or term of six (6) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated at the expiration of any annual period upon giving twenty (20) days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this section.

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any instalment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date.

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy.

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. This subsection shall not apply:

(a) If the insurer has manifested its willingness to renew; nor

(b) In case of nonpayment of premium. Provided, that, notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(6) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(7) *No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured*

or the applicant is handicapped or a physically disabled person, so long as the handicap or physical disability does not substantially impair the person's mechanically assisted driving ability.

(8) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. Such notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(9)[~~(8)~~] The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(10)[~~(9)~~] There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

SB 86, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan, or

b. To any policy insuring more than four automobiles, or

c. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage.

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this section be considered as if written for a policy period or term of six (6) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated at the expiration of any annual period upon giving twenty (20) days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this section.

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any instalment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date.

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy.

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age *or marital status* of the insured *or refuse to issue or renew a policy of automobile insurance solely because of marital status.*

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. This subsection shall not apply:

(a) If the insurer has manifested its willingness to renew; nor

(b) In case of nonpayment of premium. Provided, that, notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(6) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(7) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. Such notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(8) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(9) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

The Committee on Education reported HB 24 with Committee Substitute attached thereto, HB 105, HB 549 with Committee Amendments attached thereto, HB 570 with Committee Substitute and Committee Amendment attached thereto, HB 677 with Committee Amendment attached thereto, and SB 8 with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 24, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days *and shall begin no earlier than the first Tuesday after the first Monday in September each year.* A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30.

(b) A pupil's required attendance in school shall be for at least the minimum term.

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. The board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday, two (2) days for the opening and closing of schools without the presence of pupils, the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky, and

(b) Local disaster which would endanger the health or safety of children or mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction, and shall use one (1) day of excused absence for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(c) The state board of education shall grant up to ten (10) disaster days to a qualified school district which

has missed more than twenty (20) days of school due to inclement weather. In order to qualify for disaster days the school districts must conduct classes on every possible day except Saturday and Sunday and still be unable to conduct one hundred seventy-five (175) days of instruction by June 7. Nothing in this Act shall prevent a district from holding classes on Saturday or from extending the school calendar passed June 7 if approved by the local board and the state board of education. The local board of education upon recommendation of the local school superintendent shall apply to the state board of education for disaster days.

(4) The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

Section 2. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the *average number of* [~~aggregate days attended by~~] pupils *attending each day* [~~in a public school, divided by the actual number of days the~~] school is in session *after the twenty (20) lowest attendance days have been deducted*;

(2) "Board" means the board of education of any county or independent school district;

(3) "Classroom unit" means the unit for measuring educational needs for foundation program purposes;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of grades kindergarten through eight (8), or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Foundation program" means the level of educational services and facilities, as defined in KRS 157.310 to 157.440, which is to be provided in each district from the public school foundation program fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day or one-half (1/2) year, in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session;

(8) "Public school foundation program fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Kentucky administrative regulations of the state board of education" means those regulations which the state board of education may adopt upon the recommendation and with the advice of the superintendent of public instruction. The superintendent of public instruction shall recommend for adoption by the state board of education such rules and regulations as he deems necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(11) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience and such other factors as the state board of education may approve and which does not discriminate between salaries paid elementary and secondary teachers;

(13) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days membership of pupils in a public school for the school year.

The Committee Substitute to HB 24 is as follows:

HB 24, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days *and shall begin no earlier than the first Tuesday after the first Monday in September each year, except the school term may begin earlier upon application to the state board of education for exemption. Exemptions shall be granted to school districts which have a history of inclement weather or which have certified that all classrooms are air-conditioned.* A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30.

(b) A pupil's required attendance in school shall be for at least the minimum term.

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. The board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday, two (2) days for the opening and closing of schools without the presence of pupils, the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky, and

(b) Local disaster which would endanger the health or safety of children or mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction, and shall use one (1) day of excused absence for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(4) The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

HB 105, AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.175 is amended to read as follows:

(1) As a continuation of the policy of teaching our country's history and as an affirmation of the freedom of religion in this country, the board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary. Pupils shall be reminded that this Lord's prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs in any manner. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion symbolized by the recitation of the Lord's prayer.

(2) By August 1, 1980, the board of education of each public local school district shall establish a policy and develop procedures whereby the pupils in each elementary and secondary school may participate in the pledge of allegiance to the flag of the United States at the commencement of each school day.

(3) At the commencement of the first class of each day in all public schools, the teacher in charge of the room may announce that a moment of silence not to exceed one (1) minute in duration shall be observed.

HB 549, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.485 is amended to read as follows:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate *shall be issued without charge upon* [~~is the certificate granted for~~] successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. *A five dollar ($5.00) fee may be assessed by the state board of education for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.*

(2) Sufficient funding shall be provided to comply with the American council on education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American council on education;

(c) Staff shall be employed and trained by the department of education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the division of adult education to score essays daily.

The Committee Amendment No. 1 to HB 549 is as follows:

Amend printed copy of HB 549:

On page 2, after line 11, insert the following:

"Section 2. To carry out the purposes of this Act, there is appropriated to department of education out of the General Fund in the State Treasury the sum of 100,000 dollars for 1986-87 fiscal year and the sum of 150,000 dollars for the 1987-88 fiscal year."

The Committee Title Amendment No. 1 to HB 549 is as follows:

Amend printed copy of HB 549:

Amend title to read as follows:

"AN ACT relating to education and making an appropriation therefor."

HB 570, AN ACT relating to the school facilities construction commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school foundation program funds made available to the credit of each district during any year, shall be received, held and expended by the district board, subject to the provisions of law and Kentucky administrative regulations of the state board of education. The following restrictions shall govern the expenditure of funds from the public school foundation program fund:

(1) The teachers' salaries allotment for each district from the public school foundation program fund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days and no teacher shall be paid less than ninety-three percent (93%) of the public school foundation program fund allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(4) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The state board of education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for foundation program instructional salaries is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for foundation program instructional salaries the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year.

(3) The capital outlay allotment for each district from the public school foundation program fund and from local sources shall be kept in a separate fund and may be used by the district only for capital outlay projects approved by the superintendent of public instruction in accordance with requirements of law, and based on a survey made in accordance with Kentucky administrative regulations of the state board of education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the state board of education under KRS 160.550;

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets; provided, however, if any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the *district* [~~superintendent of public instruction under Kentucky administrative regulations of the state board of education,~~] may [~~authorize the district to~~] use all or a proportionate fraction of its capital outlay allotment for current expenses.

(4) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the superintendent of public instruction, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers and other technological hardware to be utilized for educational purposes only.

Section 2. KRS 157.620 is amended to read as follows:

(1) In order to participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Levy a minimum equivalent tax rate of twenty-five (25) cents as defined by KRS 157.615;

(b) All new revenue generated by any tax increase required to meet the minimum equivalent tax rate must be placed in a restricted account for school building construction bonding; and

(c) On July 29, 1985 and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan. *Use of capital outlay funds by a district according to the provisions of KRS 157.420 shall not exclude a district from participation in the school facilities construction commission, and funds used according to KRS 157.420 shall not be considered part of available local revenue.*

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the department of education, to transfer funds restricted by this Act for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the general assembly the state board of education shall submit a statement to the school facilities construction commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the state board of education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the state board of education since January 1, 1981 shall be revised by December 31, 1985. The state board of education shall conduct public hearings on all amendments to approved plans.

The Committee Substitute to HB 570 is as follows:

HB 570, AN ACT relating to the school facilities construction commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the county board of elections shall submit to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five (5) cents nor more than fifty (50) cents as requested by the board shall be levied on each $100 of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings and physical education and athletic facilities, for the erection and complete equipping of new school buildings and physical education and athletic facilities, for the major alteration, enlargement and

complete equipping of existing buildings, and physical education and athletic facilities, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school improvements, *for the purpose of providing maintenance and insurance for school facilities,* and for the purpose of financing any program for the acquisition, improvement, or building of school improvements. The question shall be so framed that the voter may by his vote answer "for" or "against."

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county board of elections, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall, when the next tax rate for the district is fixed, levy the special rate specified for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided, however, that such investment shall be approved by the state board for elementary and secondary education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state board for elementary and secondary education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapters 58 and 162.

The Committee Title Amendment No. 1 to the Committee Substitute to HB 570 is as follows:

Amend printed copy of HB 570:

By deleting "the school facilities construction commission" and inserting "special voted building taxes" in lieu thereof.

HB 677, AN ACT relating to the teachers' retirement system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to *161.990* [~~161.710~~] for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49, and any regular or special teacher, *or professional employe* [~~supervisor or administrator~~] occupying a position requiring certification by the state department of education or *graduation from a four (4) year college or university* [~~a professional level of training~~], as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, *other public education agencies as created by the general assembly,* and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employe contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employes of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position or in length of employment.

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions *or reductions.*

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent (3%) per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employe contributions as described in KRS 161.540(2), plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year.

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.290 is amended to read as follows:

(1) The board of trustees shall meet on the third Monday during the months of March, June, September, and December of each year. Special meetings may be called by the chairperson upon giving adequate notice to each member of the board of trustees. The business to be transacted at special meetings shall be specified in the notice of the meeting.

(2) The members of the board of trustees shall serve without compensation except that elective trustees shall receive *ninety* [~~sixty~~] dollars *($90)* [~~($60.00)~~] for each day the board is in session and all elected trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service to the board without limitation of the provisions of KRS Chapters 44 and 45.

(3) The board of trustees may authorize a per diem, not to exceed *ninety* [~~sixty~~] dollars *($90)* [~~($60.00)~~] per day for trustees representing the system on committees or commissions established by statute or for service as an official representative of the board of trustees.

Section 3. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18A and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employes of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four-year college, and shall possess such other qualifications as the board of trustees may require by regulation. The executive secretary shall not have held by appointment or election an elective public office within the five-year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employes in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS Chapters 56 and 45A, and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employes of the system who may be subjected to civil action arising from the performance of their legally assigned duties in the event such counsel and services are not provided by the attorney general.

(4) The board shall require the trustees, executive secretary and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund necessary to insure the trustees and any employes and officials of the teachers' retirement system against any liability arising out of an act of omission committed in the scope and course of performing legal duties.

Section 4. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system.

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability.

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund together with regular interest assigned by the board of trustees from the guarantee fund. At time of retirement of a member by reason of service or disability there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance.

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances.

(5) The survivor, death and medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.520, 161.525, 161.655 and 161.675. One and eighty-one hundredths percent (1.81%) of the gross annual payroll of all members shall be deposited to this fund. One-half of this amount shall derive from member contributions and one-half from state appropriation. In addition whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, 161.655 and 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits.

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. *The board of trustees may, at the beginning of a fiscal year, transfer from the guarantee fund to the survivor, death and medical insurance fund an amount not to exceed two percent (2%) of the income earned from investments during the immediate past year.*

Section 5. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers, [~~and~~] all present teachers *and all persons participating under the retirement system as of June 30, 1986,* except as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29. *The board of trustees of the teachers' retirement system shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.* No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1974, and thereafter, an active contributing member of the retirement system with contributing service equal to two (2) years or the number of years subsequent to the withdrawal of

contributions, whichever is the lesser number, may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a teacher, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years.

Upon termination of member accounts under this subsection, funds in the account shall be transferred to the *guarantee* [~~state accumulation~~] fund. Inactive members may apply for refunds of such funds at any time. Such terminated service shall be reinstated, if not withdrawn by the member, in the event that the teacher returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions with regular interest including any payments made by the teacher to the state accumulation fund, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the survivor, death and medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits. Requests for refund of contributions by the member must be filed on forms prescribed by the teachers' retirement system and the employer must certify that the employment of the member has terminated as of the date of the application for refund of contributions.

(7) Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the teacher to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to contributions made to the survivor, death and medical insurance fund.

(8) Any active contributing member of the Kentucky employes retirement system, the county employes retirement system, the state police retirement system, or the judicial retirement system may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 6. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. *Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death and medical insurance fund.* Such contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

Section 7. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income; or

(b) Two hundred *twenty* dollars *($220)* [~~($200)~~] per month when the surviving widow or widower's total income from all sources does not exceed six thousand dollars ($6,000) per year or five hundred dollars ($500) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the teachers' retirement system, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except that eligibility for this benefit shall cease upon remarriage. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be one hundred *eighty* [~~sixty-five~~] dollars *($180)* [~~($165)~~] per month in the case of one (1) such child, *three hundred ten* [~~two hundred ninety~~] dollars *($310)* [~~($290)~~] per month in the case of two (2) such children, three hundred *sixty* [~~forty~~] dollars *($360)* [~~($340)~~] per month in the case of three (3) such children, and *four hundred* [~~three hundred seventy~~] dollars *($400)* [~~($370)~~] per month in the case of four (4) or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3).

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death the benefit shall be two hundred dollars ($200) per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this subsection and subsection (2) shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19) if a full-time student in high school or upon marriage,

except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1), (2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 8. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as beneficiary of the member's retirement account or in the absence of an eligible spouse a legal dependent of said member, if named as beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. *Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service.* In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or ten years certain payment. A spouse may receive the annuity provided herein at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520, however, a legal dependent, other than a spouse, may not receive such payments if children have qualified for benefits under that section.

(2) A spouse or legal dependent qualifying for an annuity under subsection (1) of this section may defer such payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of thirty (30) years of service, the spouse, if named as the beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 9. KRS 161.545 is amended to read as follows:

Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. Contributions permitted after August 1, 1982 shall *not* be picked up pursuant to KRS 161.540(2).

Section 10. KRS 161.550 is amended to read as follows:

(1) Beginning with July 1, 1976, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total member salaries to discharge the system's unfunded obligations with interest assumed by the state. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.220 through 161.714. In the event an annual appropriation is in excess of these requirements, such excess funds shall, in the 1982-84

biennium, be retained by the system to be applied to any unfunded remaining costs as described in subsection (5) of KRS 161.155. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the state's obligation to match the July 1, 1984 increase in the member rate of contribution during the 1984-86 biennium. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system.

(2) Beginning with July 1, *1988* [~~1986~~], the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all employes of local school districts who are members of the retirement system. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total salaries of the employes of local school districts who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts, shall contribute annually to the retirement system a permanent amount equal to that contributed by its employes who are members of the retirement system plus an additional three and one-fourth percent (3.25%) of the total of salaries of its employes who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts, shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.220 through 161.714. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. State contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and such contributions shall be considered deferred compensation to the members.

Section 11. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of thirty (30) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:

29 years—*92%* [~~90%~~] of benefits

28 years—*84%* [~~80%~~] of benefits

27 years—*76%* [~~70%~~] of benefits.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the

service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 12. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than *one hundred forty* [~~eighty-eight~~] dollars *($140) effective July 1, 1986 and one hundred eighty dollars ($180) effective July 1, 1987,* [~~($88)~~] multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums [~~shall be effective July 1, 1978, and~~] shall apply *to the retired members receiving annuity payments and* to those members retiring on or subsequent to *the effective dates listed in this subsection* [~~that date~~]. *Eligibility for the benefits provided under this section shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987, annuity payment of the member.*

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, *1986* [~~1982~~], the monthly allowance of each member retired on or before July 1, *1985* [~~1981~~], and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, *1987* [~~1983~~], the monthly allowance of each member retired on or before July 1, *1986* [~~1982~~], and each recipient of a retirement option of such retired member shall be increased in the amount of

three [~~one~~] percent *(3%)* [~~(1%)~~] of the monthly allowance [~~for each year the member had been retired up to a maximum of five (5) years~~]. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, [~~and~~] 1982-84 *and 1986-88 and the cost of implementing the increases provided under subsection (3) of this section* shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the *1986-88* [~~1982-84~~] biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 13. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the teachers' retirement system and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary, except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.

(2) No member who has reached the age of sixty (60) years and who is otherwise qualified for retirement may retire by reason of disability, with the disability allowance of sixty percent (60%) of the member's final average salary as set out in subsection (1) above. A member who is sixty (60) years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4) and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of such members.

(3) Members shall earn one year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of such eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year so retired. Such service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of *a* [~~the~~] medical review *committee* [~~board~~], and shall be used in calculating benefits as provided in subsection (5) of this section. *The service credit shall be valued at the same level as service earned by active members.*

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall have such disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) above. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty (60) years of age shall be considered as sixty (60).

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is

discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of three hundred dollars ($300) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1980, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or such member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) In order to qualify for retirement by reason of disability a teacher must suffer from a physical or mental condition presumed to be permanent in duration and of such a nature as to render him incapable of being gainfully employed as a teacher. Such incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of *a* [~~the~~] medical review *committee* [~~board~~].

(9) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of *a* [~~the~~] medical review *committee* [~~board~~] indicate the disability no longer exists, the allowance shall be discontinued.

(10) Eligibility for payment shall begin on the first day of the month following receipt of the application in the teachers' retirement system office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(11) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of such allowance from the first date of such service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of twelve thousand dollars ($12,000) or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or twelve thousand dollars ($12,000), whichever is the greater amount. In no case shall the benefit be reduced to less than seventy-five dollars ($75) per month, if the member has five (5) or more years of contributing service in the teachers' retirement system.

(12) The board of trustees shall designate [~~a~~] medical review *committees, each* [~~board~~] consisting of three [~~or more~~] licensed physicians [~~and may designate physicians in various areas of the Commonwealth to conduct examinations as needed~~]. *A* [~~The~~] medical review *committee* [~~board~~] shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by *a* [~~the~~] medical review *committee* [~~board~~] in writing to the board of trustees. Members of *a* [~~the~~] medical review *committee* [~~board~~] shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure such additional medical service and information as it deems necessary. *The board of trustees shall promulgate regulations that specify member appeal procedures.*

(13) A disability may be presumed to be permanent if the condition creating such disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of *a* [~~the~~] medical review *committee* [~~board~~], may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

Section 14. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to members retired for service or disability. Coverage may be extended to the spouses and minor children of said retired members, provided the member began participating in the teachers' retirement system prior to July 1, 1978. Coverage may also be extended to spouses and to minor children of members in active contributing status who are deceased prior to retirement if the surviving spouse is eligible to receive the member's retirement benefit as provided in KRS 161.525 and elects to do so. *The board of trustees may offer, on a cost basis, coverage of spouses not eligible for regular coverage.*

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the teachers' retirement system or of combined service in the Kentucky employes retirement system, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for such coverage.

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the insurance program. Such charges may be flat standard amounts or based upon the amount of the annuity allowance payments or a combination of these provisions. The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund and from the premium charges received from the annuitants and the spouses. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 15. Whereas, retirement annuity adjustments are implemented at the beginning of a fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1986.

The Committee Amendment No. 1 to HB 677 is as follows:

Amend printed copy of HB 677:

On page 1, on line 2 after KRS 161.220, bracket and strike through "to 161.710" and insert "*through 161.716, and 161.990*" in lieu thereof

On page 1, on line 4 after KRS 161.230, bracket and strike through "to", delete "*161.990*" and insert "*through 161.716, and 161.990*" in lieu thereof.

SB 8, AN ACT relating to the school term.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days. A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings

shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board of education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils.

(4) The board of education of any school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. [~~,~~]

(5) Two (2) days *may be used* for the opening and closing of schools without the presence of pupils.

(6) Schools may be closed for a national [~~, the number of days deemed necessary for:~~

~~(a) National~~] or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky.

(7) Schools may be closed for a local [~~, and~~

~~(b) Local~~] disaster which would endanger the health or safety of children or *a period of* mourning when so designated by the district board of education and approved by the state board of education upon recommendation of the superintendent of public instruction.

(8) One [~~, and shall use one~~] (1) day of excused absence *may be used* for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(9) Local boards of education may declare up to ten (10) days as "weather calamity days," and the superintendent of public instruction shall have the authority to approve up to five (5) additional days for that purpose. For purposes of this subsection, "weather calamity days" shall mean days on which schools may be open with reduced attendance under a weather-related emergency plan. The average daily attendance for the prior year shall be used as the official attendance on weather calamity days.

(10)[~~(4)~~] The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection *(7)*[~~(3)(b)~~] of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

The Committee Amendment No. 1 to SB 8 is as follows:

Amend printed copy of GA copy of SB 8:

On page 3, line 22, by adding the following after "*days.*":

"*The department of education must receive notification from the local board or the superintendent of a district's decision to declare a weather calamity day on the same day the weather calamity day is taken.*"

The Committee Amendment No. 2 to SB 8 is as follows:

Amend printed copy of GA copy of SB 8:

On page 3, line 23, after "*(10)*", insert the following:

"*Local boards of education shall develop, adopt and circulate to the parents in their districts an emergency plan which shall outline procedures for keeping schools open as often as possible during weather-related and other emergency conditions. The plan shall be filed with the department of education.*

(11)"

The Committee on Energy reported HB 510, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 510, AN ACT relating to energy assistance and weatherization and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the treasury of the Commonwealth a trust fund to be known as the "energy assistance and weatherization fund" herein referred to as the "fund."

(2) The fund shall consist of any gifts, donations, contributions, bequests of money or securities made to the fund; any sums which become available as a result of a voluntary check-off and contribution of state tax refunds on personal income tax returns as provided for in Section 3 of this Act; any oil overcharge refunds which become available to the Commonwealth as a result of any settlements of litigation brought by the United States department of energy for alleged overcharges fo crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect; and any investment interest earned on the excess cash in the fund. All moneys in excess of the amount required to meet current expenses shall be invested in interest-bearing accounts and accrue to this fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The moneys in the fund shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet.

(2) The secretary of the finance and administration cabinet shall manage the fund with the following stipulations:

(a) Seventy-five percent (75%) of any oil overcharge refunds received into the fund and any investment interest earned on such refunds shall be designated for and made available as needed to the cabinet for human resources for supplementary funding of the low-income home energy assistance program;

(b) Twenty-five percent (25%) of any oil overcharge refunds received into the fund shall be designated for and made available as needed to the cabinet for human resources for supplemental funding of the weatherization program administered by that agency; and

(c) All funds, other than oil overcharge refunds, received into the account shall be annually remitted January 1 to the cabinet for human resources to be used to assist households in an energy crisis situation under the low-income home energy assistance program.

(3) The secretary of the finance and administration cabinet shall submit to the cabinet for human resources quarterly status reports on the fund.

(4) The secretary of the finance and administration cabinet shall submit to the legislative research commission on January 1 of each year a report on the operational and financial status of the fund and shall include in such report a summary of how the cabinet for human resources dispensed moneys received from the fund during the previous year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the energy assistance and weatherization fund established in Section 1 of this Act may designate an amount, not to exceed the amount of the refund, to be made to such program. In the case of a joint return, each spouse may also designate that a portion of the refund shall be paid to said fund.

(2) The designation for contributions to the energy assistance and weatherization fund shall appear on the face of the income tax return form.

(3) Any contributions made to the fund through the voluntary check-off shall be disbursed to the cabinet for human resources for energy assistance as set out in Section 2(2)(c) of this Act. The cabinet for human resources may engage in activities to promote the fund.

Section 4. Whereas, oil overcharge refunds could be received into the state at any time, an emergency is declared to exist, and Sections 1 and 2 of this Act shall become effective upon passage of the Act and approval by the Governor.

The Committee Substitute to HB 510 is as follows:

HB 510, AN ACT relating to energy assistance and weatherization and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the treasury of the Commonwealth a trust fund to be known as the "low-income energy assistance trust fund" herein referred to as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of settlements of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any monies as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state office for investment and debt management and the principal accumulated shall be invested with a maximum long-range return. The principle shall at no time lapse to the general fund and shall continue to be invested. Interest accrued to the fund during the previous year shall be available for disbursement by the cabinet for human resources upon the authorization of the low-income energy assistance trust fund board as provided for in Section 5 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The low-income energy assistance trust fund board, herein referred to as the "board," is established to monitor the trust fund and all activities financed by the trust fund.

(2) The board shall be comprised of the secretary of the finance and administration cabinet, the secretary of the cabinet for human resources, the secretary for the energy cabinet, the secretary for the revenue cabinet and the state treasurer. The secretary of the finance and administration cabinet shall serve as chairperson.

(3) The board shall meet not less than four (4) times a year upon call of the chairperson.

SECTION 3. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The board shall review all investments of trust fund monies made by the office for investment and debt management and advise the secretary of the cabinet for human resources by March 1 of each year on the estimated funds to be available from the trust fund for the forthcoming fiscal year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall prepare and submit a plan to the board for the expenditures of those monies available from the trust fund on or before April 15 of each year.

(2) The board shall review the plan and shall forward it to the governor no later than June 15 with such comments and recommendations as the board may deem appropriate.

(3) The governor shall act upon the plan no later than June 30.

SECTION 5. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

Once a plan is approved by the governor the board shall authorize the withdrawal of monies from the trust fund for the purposes provided in the approved plan. Funds shall be withdrawn as expenditures are incurred and billing received to maximize interest earned on the monies.

SECTION 6. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall expend monies from the trust fund to benefit only low-income households and only in areas related to weatherization and related energy conservation activities which will result in long-term energy savings.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The board shall prepare and submit to the legislative research commission a report by July 30 of each year on the operational and financial status of the fund and shall include in such report the plan as approved by the governor for expenditures of monies available from the trust fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources may promulgate such administrative regulations as necessary to effectively administer the requirements of this Act.

Section 9. Whereas, oil overcharge refunds could be received into the state at any time, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Labor and Industry reported HB 667 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 667, AN ACT relating to liquefied petroleum gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 234.120 is amended to read as follows:

(1) Subject to the exceptions provided in subsection (2), no person shall engage in any of the businesses set out herein without first having obtained from the commissioner the required license or licenses and paid the prescribed fee therefor:

(a) Selling, to the ultimate consumer or user, of liquefied petroleum gas, of liquefied petroleum gas containers, *of liquefied petroleum gas utilization equipment,* or of liquefied petroleum gas regulating equipment for use with liquefied petroleum gas, $50.00;

(b) Assembling, repairing, installing or connecting of liquefied petroleum gas containers, or regulating equipment, or liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment, or the filling of I.C.C. liquefied petroleum gas containers of less than one hundred (100) pounds capacity, $25.00;

(c) Selling or delivering liquefied petroleum gas in prefilled containers (this does not authorize the filling of containers or delivery by tank truck), $50.00;

(d) The selling of liquefied petroleum gas for use in motor vehicles, as a motor fuel, from storage containers, dispensing devices, and pertinent equipment, $25.00;

(e) Engaging in all the businesses set out in paragraphs (a), (b), (c), and (d), and having not more than five hundred (500) customers (this license shall be in lieu of the four (4) individual licenses required by paragraphs (a), (b), (c), and (d)), $50.00;

(f) Engaging in all the businesses set out in paragraphs (a), (b), (c) and (d) and having more than five hundred (500) customers (this license shall be in lieu of all other licenses), $100;

(g) Storing, for resale, of liquefied petroleum gas in other than I.C.C. containers, except qualifications under (b) or (d), $100;

(h) Transporting of liquefied petroleum gas, by tank truck, over the highways of this state, $100;

(i) Delivering of liquefied petroleum gas to any person, by tank truck, or the delivering, to any person other than the ultimate consumer, in containers, except where the delivering is incidental to the carrying on of a business licensed under paragraph (f) herein, $100;

(j) The filling of liquefied petroleum gas containers of one hundred (100) pound capacity or more, $100;

(k) Engaging in all or any combination of the businesses set out in paragraphs (a) to (j) inclusive (this license shall be in lieu of all individual licenses required herein), $100;

(2) No person shall be required to obtain a license in order to engage in the following activities concerning liquefied petroleum gas:

(a) Storage, by the ultimate consumer, for consumption only;

(b) Transportation, by the ultimate consumer, in quantities of ten (10) gallons or less;

(c) Handling in quantities of less than one (1) gallon United States water capacity, where the gas is an integral part of a device for its utilization;

(d) Use as a fuel, while in the fuel tank of a motor vehicle.

(3) Any person engaged in any business for which a license is required under the provisions of subsection (1) and who engages in such business at more than one (1) office or place of business in this state shall obtain a separate license for each such office or place of business and shall pay therefor the required license fee; except that for the purposes of issuance of licenses under subsection (1) all facilities for the storage only of liquefied petroleum gas for resale within a radius of twenty (20) miles of an office or place of business shall be considered a part of such office or place of business and shall not require separate licensure.

(4) The commissioner shall further have the authority to make, promulgate, and enforce such reasonable regulations requiring proof of ability to respond in damages for personal injury and property damages in the minimum amount of ten thousand dollars ($10,000), prior to the issuance of a license.

SECTION 2. A NEW SECTION OF KRS 234.100 to 234.200 IS CREATED TO READ AS FOLLOWS:

(1) No person shall sell, install, fill, refill, deliver or permit to be delivered or use in any manner any liquified petroleum container unless such container is owned by such person or its use is authorized by the owner thereof.

(2) No person shall dismantle, evacuate, service, tamper with or deface any liquified petroleum container unless such container is owned by the person or such action is authorized by the owner of said container.

Report on Enrolled Bills

The Committee on Enrollment reported HB 471 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:10 p.m.)

HB 471 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 700 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that HB 700 be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 4, 1986, roll call on HB 700—Appendix A.)

HB 700 was passed and the title agreed to.

Representative P. Richardson moved that the vote by which HB 700 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 211 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that HB 211 be passed.

On the roll call the vote was: Yeas 78, Nays 11. (See March 4, 1986, roll call on HB 211—Appendix A.)

HB 211 was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 211 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 305, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Amendment No. 1 to HB 305. Rejected.

Representative Moberly moved that HB 305 be passed.

On the roll call the vote was: Yeas 73, Nays 17. (See March 4, 1986, roll call on HB 305—Appendix A.)

HB 305 was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 305 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 208 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that HB 208 be passed.

On the roll call the vote was: Yeas 88, Nays 5. (See March 4, 1986, roll call on HB 208—Appendix A.)

HB 208 was passed and the title agreed to.

Representative Moberly moved that the vote by which HB 208 was passed be reconsidered and said motion be placed on the table. Agreed.

Reported on Enrolled Bills

The Committee on Enrollment reported SB 156 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:22 p.m.)

Orders of the Day (Continued)

HB 64, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of the Floor Amendment No. 5 to HB 64. Agreed.

Representative Farrow moved the adoption of the Floor Amendment No. 3 to HB 64. Agreed.

Representative Crupper moved that HB 64, as amended, be passed.

Representative Farrow moved that Floor Amendment No. 6 to HB 64 be rejected. Agreed.

On the roll call the vote was: Yeas 90, Nays 3. (See March 4, 1986, roll call on HB 64—Appendix A.)

HB 64, as amended, was passed and the title agreed to.

Representative Crupper moved that the vote by which HB 64, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 362, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment No. 1 to HB 362. Agreed.

Representative Bennett moved that HB 362, as amended, be passed.

On the roll call the vote was: Yeas 61, Nays 23. (See March 4, 1986, roll call on HB 362—Appendix A.)

HB 362, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 362, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 633 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that HB 633 be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 4, 1986, roll call on HB 633—Appendix A.)

HB 633 was passed and the title agreed to.

Representative L. Clark moved that the vote by which HB 633 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 155 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that SB 155 be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 4, 1986, roll call on SB 155—Appendix A.)

SB 155 was passed and the title agreed to.

Representative Richards moved that the vote by which SB 155 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 224, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to HB 224. Agreed.

Representative Bendl moved that HB 224, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 4, 1986, roll call on HB 224—Appendix A.)

HB 224, by way of Committee Substitute, was passed and the title agreed to.

Representative Bendl moved that the vote by which HB 224, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 329, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to HB 329. Agreed.

Representative Johnson moved that HB 329, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 4. (See March 4, 1986, roll call on HB 329—Appendix A.)

HB 329, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which HB 329, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 523 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that HB 523 be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 4, 1986, roll call on HB 523—Appendix A.)

HB 523 was passed and the title agreed to.

Representative Burch moved that the vote by which HB 523 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 529 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that HB 529 be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 4, 1986, roll call on HB 529—Appendix A.)

HB 529 was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 529 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 553, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment No. 1 to HB 553. Agreed.

Representative Donnermeyer moved that HB 553, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 4, 1986, roll call on HB 553—Appendix A.)

HB 553, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which HB 553, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 618, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Amendment No. 1 to HB 618. Agreed.

Representative Lear moved that HB 618, as amended be passed.

On the roll call the vote was: Yeas 81, Nays 6. (See March 4, 1986, roll call on HB 618—Appendix A.)

HB 618, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which HB 618, was amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 346, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 346 is as follows:

Amend printed copy of HB 346:

On page 2, after line 11, by adding:

(d) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in KRS 208.020(1)(a), whose custodial parent or guardian at the time the need of the minor is determined is able to provide for the payment of an attorney and all other necessary expenses of representation, when such representation is not provided or is not consented to by the unemancipated minor.

and on page 3, line 20, by adding after "*31.100(3)(c)*" the words "*and (d)*", and

on page 4, line 4, by adding after "*KRS 31.100(3)(c)*" the words "*and (d)*", and

on page 4, line 18, by adding after "*KRS 31.100(3)(c)*" the words "*and (d)*", and

on page 8, line 6, by adding after "*KRS 31.100(3)(c)*" the words "*or (d)*"

Representative Scorsone moved that the House concur in the Senate Amendment No. 1 to HB 346. Agreed.

Representative Scorsone moved that HB 346, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 4, 1986, roll call on HB 346—Appendix A.)

HB 346, as amended by the Senate, was passed and the title agreed to.

Representative Scorsone moved that the vote by which HB 346, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 209, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 209 is as follows:

Amend printed copy of HB 209:

On page 3, line 26, after the period (.) insert the following:

"No quotas shall be established for any institution and the selection of students shall be made without preference given to the number of students who choose to attend any participating institution."

Representative Moberly moved that the House refuse to concur in the Senate Amendment No. 1 to HB 209. Agreed.

HB 579, with Senate Amendments attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 579 is as follows:

Amend printed copy of HB 579:

On page 3, line 16, after the word "than", add "*two (2)*", place bracket around "five (5)" and strikethrough.

The Senate Amendment No. 2 to HB 579 is as follows:

Amend printed copy of HB 579:

On page 7, after line 25, by adding the following:

"Section 2. KRS 157.575 is amended to read as follows:

(1) *For school year beginning July 1, 1986, and each year thereafter, each school district shall receive the 1985-86 power equalization allotment provided the provisions of KRS 157.564 are met.* No district shall be eligible for *any increase in* the state power equalization support provided for in KRS 157.545 to 157.575 *above the amount allotted for the 1985-86 school year* during any fiscal year in which the district board of education specifies in its budget for that fiscal year a total school tax rate which would produce less revenue than [~~was~~] produced by *an equivalent tax rate of twenty-five (25) cents or the maximum rate supported by the common school district power equalization program in that school year as provided in KRS 157.555 and 157.560, whichever is greater. The equivalent tax rate shall be calculated as follows: the income collected during the prior year from all taxes levied for school purposes by the school district board of education is divided by the total assessed value of property at full school rates plus the assessment for motor vehicles for the prior school year certified by the commonwealth of Kentucky revenue cabinet. School districts collecting school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and/or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.* [~~the application of that district's total school tax rate for fiscal year 1976-77, less thirty (30) cents, to that district's 1976 assessment specified under KRS 160.460(3); provided that the 1976-77 revenue shall be recalculated if the tax voted under KRS 157.440 or 160.477 expires.~~]

(2) The superintendent of public instruction shall not certify to the department of finance for payment of the state power equalization support for any fiscal year a school district which has become ineligible for such support as provided in subsection (1) above.

(3) Any district receiving a tentative allotment under KRS 157.570 which does not meet the requirement of subsection (1) above shall return all funds received to the district equalization program fund."

The Senate Amendment No. 3 to HB 579 is as follows:

Amend printed copy of HB 579:

By changing the Title to read: "AN ACT relating to education."

Representative Curd moved that the House concur in the Senate Amendment No. 1 to HB 579. Agreed.

Representative Curd moved that the House concur in the Senate Amendment No. 2 to HB 579. Agreed.

Representative Curd moved that the House concur in the Senate Amendment No. 3 to HB 579. Agreed.

Representative Curd moved that HB 579, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 1. (See March 4, 1986, roll call on HB 579—Appendix A.)

HB 579, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 579, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stewart moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stewart moved that a call of the roll be taken to show co-sponsors of HR 111. Agreed.

The following members requested that their names be added as co-sponsors of HR 111: Allen, Bendl, Blandford, Brinkley, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cline, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Ford, Gray, Guenthner, Hancock, Handy, J. Harper, Hines, Holloway, Jensen, T. Jones, Keith, Kerr, Layman, Lefevers, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Moberly, Napier, Nett, Noe, Noland, Pearman, Preston, Priddy, Rapier, Reinhardt, Richards, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Todd, White, Williams, Worthington, Yates.

Representative Stewart moved the adoption of the following HR 111:

HR 111, A RESOLUTION designating that the Saturday before Memorial Day be recognized as Poppy Day throughout the state of Kentucky.

WHEREAS, since the first World War, veterans returning home to this country remembered the wild poppies which lined the devastated battlefields of France and Flanders; and

WHEREAS, the soldiers of all nations came to look upon this flower as a living symbol of their dead comrades' sacrifice; and

WHEREAS, honoring the war dead by wearing a poppy first occurred in New York City in the year of 1919; and

WHEREAS, the American Legion Auxiliary's Poppy Program began in June of 1919 to help disabled veterans; and

WHEREAS, the American Legion Auxiliary has continued this program throughout the years, paying disabled veterans to make the poppies to be distributed by the members of the American Legion Auxiliary to the public;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the state of Kentucky proclaim and recognize the Saturday before Memorial Day as Poppy Day from this day forward.

HR 111 was adopted by voice vote.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Title Amendment No. 2 to HCR 65, by Representative Cowan:

Amend printed copy of HCR 65:

On page 1 on line 4 of the title, after the word "balanced" by deleting the following:

", or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment for submission to the states"

Floor Amendment No. 2 to HCR 65, by Representative Cowan:

Amend printed copy of HCR 65:

On page 1 on line 10 of the preamble after the word "necessary" by deleting the following:

", or that Congress shall call a constitutional convention upon the application of two-thirds of the several states";

On page 2, line 6 after "Section 2." by deleting the following:

"That this body, in the alternative";

On page 2 by deleting lines 7 through 23; and

On page 2, line 24 by deleting "Section 5".

Floor Amendment No. 3 to the Committee Substitute to HB 490, by Representative Farrow:

Amend printed copy of the Committee Substitute to HB 490:

On page 8, line 25, by deleting the opening bracket and eliminating the strike throughs and on page 8, line 26, by deleting the closing bracket and eliminating the strike throughs.

Floor Amendment No. 2 to the Committee Substitute to HB 490, by Representative Farrow:

Amend printed copy of the Committee Substitute to HB 490:

On page 1, line 14, by adding after the word "*Act*" the following:

" *, or persons under the supervision of a person certified by the cabinet*"; and on page 4, line 23, after the word "*another*" the following:

" *, who is not under the supervision of the certified installer,*" and on page 8, line 23, by deleting the words "*ten (10)*" and by substituting therefor "*five (5)*"; and on page 8, line 25, by deleting the opening bracket and the strike throughs on page 8, line 26, by deleting the closing bracket and the strike throughs and on page 9, by adding after line 7, the following:

"Section 6. KRS 318.015 is amended to read as follows:

(1) This chapter applies and shall be in full force and effect in all counties of the Commonwealth.

(2) The state plumbing code promulgated by the department under the provisions of this chapter applies and shall be in full force and effect for all public buildings regardless of location in the Commonwealth.

(3) This chapter shall not apply to farmsteads*; except that before the property shall receive a public water supply the water service for connection thereto shall be permitted and inspected in accordance with the state plumbing code.*".

Floor Amendment No. 1 to HB 672, by Representative Farrow:

Amend printed copy of HB 672:

On page 13, line 24, insert the word "*authority*" before the word "officer";

On page 13, line 24, place an opening bracket before the word "officer"; place a closing bracket after the word "officer"; and strike-through the word "officer";

On page 13, line 25, delete the word "*is*" and insert in lieu thereof the word, "*has*"; and

On page 48, line 22, after the word "*age*" insert the following: "*between forty (40) and seventy (70)*".

Floor Amendment No. 2 to HB 360, by Representative Seum:

Amend printed copy of HB 360:

Page 1, lines 4 and 5, by deleting the new language and by removing the brackets and strike-throughs on lines 5 and 6

Line 6, after the period, by inserting the following:

"Provided, however, that beginning on the effective date of this Act, the minimum hourly wage shall not be less than two dollars and ninety cents ($2.90) and shall be increased, thereafter, on July 1 of each year by fifteen (15) cents until such minimum hourly wage rate reaches three dollars and thirty-five cents ($3.35)."

Floor Amendment No. 2 to HB 672, by Representative Hancock:

Amend printed copy of HB 672:

On page 4, following the period after the word "*appointed*", insert the following:

"*(5) In determining whether a state employe meets the minimum requirements for experience required for a job classification, the department shall consider only the experience gained during permanent full time state employment.*"

Floor Amendment No. 1 to HB 626, by Representative Hancock:

Amend printed copy of HB 626:

On page 2, lines 1 through 14, by deleting lines 1 through 14 in their entirety and inserting in lieu thereof the following language:

"Section 1. That it is the intent of the General Assembly to honor all Kentucky veterans with a state war memorial monument. That it is further the intent of the General Assembly to rededicate the existing war memorial monument, located in the Frankfort Cemetery in Frankfort, Kentucky, to honor Kentucky veterans of all wars. That it is the intent of the General Assembly to appoint a committee to oversee the disassembling, repairing, resetting and rededication of said war memorial monument.

Section 2.

(a) That to carry out the intent and purpose of this Act, there is hereby created a state war memorial committee to be comprised of the following membership: the secretary of the state finance and administration cabinet or his designee; the adjutant general of the of the Commonwealth of Kentucky or his designee; the executive director/state curator of the office of historic properties or his designee; the superintendent of the Frankfort Cemetery company or his designee; and the chairman of the joint executive council of veterans' organizations or his designee.

(b) The state war memorial committee shall be charged with the responsibility of soliciting contributions, grants and gifts from any source, both public and private, to reconstruct and rededicate the existing state war memorial monument.

(c) The state war memorial committee shall administer said funds to disassemble, repair and reset the existing monument, which may include any associated costs for an engineering study to determine the costs of repairs.

Section 3. The state war memorial committee shall be responsible for administration of funds to be used to maintain the veterans' memorial monument and upon completion of needed repairs shall coordinate a ceremony to rededicate the memorial to all of Kentucky's war veterans."

Floor Amendment No. 1 to HB 561, by Representative Cyrus:

Amend printed copy of HB 561:

On page 5, line 7, by deleting "*No balance collected by a sheriff shall be*"; and on page 5, lines 8-10, by deleting all of lines 8-10; and on page 5, line 11, by deleting "*first year of a four (4) year term.*"; and by substituting therefor "*Except in urban-county governments, no balance collected by a sheriff shall be paid to the fiscal court if, as indicated by the sheriff's budget, such payment would cause the sheriff to borrow from the state, pursuant to KRS 64.140, to operate his office during the first year of a four (4) year term. The balance, except in urban-county governments, shall be paid to the fiscal court when the revenues of the sheriff's office are sufficient to operate his office without borrowing, but no later than December 31 of the first year of the sheriff's term of office, unless the fiscal court consents to further delay.*".

Floor Amendment No. 1 to HJR 81, by Representative Blevins:

Amend printed copy of HJR 81:

on page 2, line 14, by inserting the following after the words "Society of Professional Engineers,": "Kentucky Medical Association, League of Kentucky Sportsmen,"

Floor Title Amendment to HB 626, by Representative Hancock:

Amend printed copy of HB 626:

Amend title to read as follows: "AN ACT relating to veterans' affairs."

Floor Amendment No. 2 to the Committee Substitute to HB 134, by Representative Ford:

Amend printed copy of Committee Substitute for HB 134:

On page 2, line 13, after "*(2)*" by inserting "*The odds of winning any lottery or sweepstakes shall be published.*

(3)"

Floor Amendment No. 1 to the Committee Substitute to HB 134, by Representative Ford:

Amend printed copy of Committee Substitute for HB 134:

On page 1, line 19, after "*(c)*" by inserting "*Twenty-four*" and by deleting "*Twenty-five*" and after "*percent*" by inserting "*(24%)*" and by deleting "*(25%)*", and

On page 2, line 6, after "*(d)*" by inserting "*Twenty-four*" and by deleting "*Twenty-five*" and after "*percent*" by inserting "*(24%)*" and by deleting "*(25%)*", and

After line 12, by inserting "*(e) Two percent (2%) of the proceeds shall be designated for the treatment of compulsive gamblers.*"

Floor Amendment No. 2 to HB 666, by Representative Holbrook:

Amend printed copy of HB 666:

On page 14, line 14, by inserting after "(2)*(a)*" the following: "*Except as provided in paragraph (e) of this subsection,* "; and on page 15, line 7, by inserting after "*(e)*" the following:

"*The active members of the police and fire fighter retirement fund may prevent the closing of their retirement fund to new members by scheduling a vote on the question and such vote shall be completed by May 15, 1987. To schedule the vote, thirty percent (30%) of the active police and fire fighters, considered as one group, must petition the mayor by May 15, 1986 to schedule the vote within the coming year. Such vote shall be by secret ballot, and each policeman and fire fighter shall have the opportunity to vote during a forty-eight (48) hour period at the office of the police chief or the fire chief, as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall verify the results to the board. If a majority of the active police and fire fighters, considered as one group, vote for entry into the county employes' retirement system, then the provisions of paragraph (a), (b), (c) and (d) of this section shall take effect. If the majority vote against entry into the county employes' retirement system, then the policemen's and fire fighters' retirement fund shall continue to operate pursuant to KRS 95.851 to 95.884.*".

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 887, by Representative Yates: AN ACT relating to plumbers and plumbing.

HB 888, by Representatives B. Richardson, Gray and Priddy: AN ACT relating to insurance.

HB 889, by Representative Mann: AN ACT relating to teaching standards and practices.

HB 890, by Representative Clapp: AN ACT relating to the department of fish and wildlife resources.

HB 891, by Representatives Noland, Brinkley, Lefevers, J. Harper, Ford and Stone: AN ACT relating to retirement credit for maternity leave.

HB 892, by Representative B. Richardson: AN ACT relating to inheritance tax.

HB 893, by Representatives Cyrus, Stumbo and Holloway: AN ACT relating to state government and declaring an emergency.

HB 894, by Representative Clarke: AN ACT relating to income taxation.

HB 895, by Representative Clarke: AN ACT relating to motor vehicle usage tax.

HB 896, by Representatives Barrows and Noe: AN ACT relating to education.

HB 897, by Representative Burnette: AN ACT relating to selling agricultural commodities on state property.

HB 898, by Representative Burnette: AN ACT relating to water wells.

HB 899, by Representatives Smith, McElroy and B. Richardson: AN ACT relating to the regulations of water districts.

HB 900, by Representative Burnette: AN ACT relating to public utilities.

HB 901, by Representative Smith: AN ACT relating to small utilities.

HB 902, by Representatives McNutt and Bruce: AN ACT relating to mortgage loan companies and mortgage loan brokers.

HB 903, by Representatives Meyer, Napier and Barrows: AN ACT changing the classification of the City of Nicholasville, in Jessamine County.

HB 904, by Representative Farrow: AN ACT relating to salary supplements for state police officers.

HB 905, by Representatives Cyrus and Bennett: AN ACT relating to state purchasing.

HB 906, by Representatives Stone and Deskins: AN ACT relating to underground coal mining.

HB 907, by Representative Richards: AN ACT relating to generic drug prescriptions.

HB 908, by Representatives Yates and Blevins: AN ACT relating to voter registration information.

HB 909, by Representative Deskins: AN ACT relating to taxation and declaring an emergency.

HB 910, by Representative Reinhardt: AN ACT relating to retirement credit for military service.

HB 911, by Representatives Bronger and McBee: AN ACT relating to respiratory therapy.

HB 912, by Representative Kerr: AN ACT relating to housing.

HB 913, by Representative Kerr: AN ACT relating to motor vehicle operators.

HB 914, by Representative Kerr: AN ACT relating to overtime.

HB 915, by Representatives Yates, Blevins, Cyrus, Stone, P. Clark, Pearman, Bennett, Hancock, Riner, Burnette, Priddy, Kerr, Nett, Curd, Burch, Johnson, Dawahare, Maggard, Preston, M. Brown, Ellington, Strong, B. Richardson, Gregory, Cline, Allen and Siler: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them providing for funding thereof, and appropriating funds for administration.

HR 119, by Representative Burnette: A RESOLUTION in memory of Jo Westpheling.

HR 120, by Representative Noe: A RESOLUTION recognizing National Teachers Day.

HCR 121, by Representative Burch: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to study barriers to self-sufficiency in current public assistance programs in Kentucky.

HR 122, by Representative Pearman: A RESOLUTION honoring the United States Merchant Marine.

HR 123, by Representative Scorsone: A RESOLUTION honoring Loris E. Points, Mary Ann Murray, and Jean DeCoursey.

HR 124, by Representative Dawahare: A RESOLUTION adjourning the House of Representatives in honor of Marlow Tackett of Pikeville, Kentucky.

HR 125, by Representatives Burnette and Worthington: A RESOLUTION relating to tobacco.

Report of Committees

The Committee on Transportation reported HB 203 with Committee Amendment attached thereto, HB 563, HB 685, HB 686, HB 687, HB 706 with Committee Amendment attached thereto, HB 722, and SB 120 with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within ten (10) days. The bill of sale or assigned title must be in the motor vehicle during this ten-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(e) An affidavit from an officer of a local government saying that the motor vehicle has been abandoned and that the provisions of KRS 82.630 have been complied with, for local governments which elect to use the provisions of KRS 82.600 to 82.640.

(2) (a) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the transportation cabinet copy of the certificate of title or registration and sent to the transportation cabinet by the clerk.

(5) At least thirty (30) days prior to the expiration of registration of any motor vehicle previously registered in the Commonwealth as provided by KRS 186A.035, the owner of said vehicle shall be notified by mail by the department of the date of expiration. In addition, the department shall provide appropriate forms and information to permit renewal of motor vehicle registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

Section 2. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles with a gross vehicular weight of 6,000 pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of two dollars ($2) for each registration, or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(5) *At least thirty (30) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be*

notified by mail by the department of the date of expiration. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7)[~~(6)~~] Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8)[~~(7)~~] The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the department of vehicle regulation.

The Committee Amendment No. 1 to HB 203 is as follows:

Amend printed copy of HB 203:

on page 4, line 6, by deleting the words "*by the department*" and inserting in lieu thereof, the words "*on the same notice required by KRS 134.805(6)*".

on page 6, line 9, by deleting the words "*by the department*" and inserting in lieu thereof, the words "*on the same notice required by KRS 134.805(6)*".

HB 563, AN ACT relating to motor vehicle registration fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an

automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products *or non-consumer type forest products* from the harvest area to a mill or other processing facility *or non-consumer type forest products from the mill or other processing facility to a site appropriate for disposal,* where such mill or processing facility *or site appropriate for disposal* is located at a point not more than fifty (50) air miles from the *point of origin* [~~harvest area~~] or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

HB 685, AN ACT relating to motor vehicle titling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the department of vehicle regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a three dollar ($3.00) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of seven dollars ($7.00) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a non-negotiable registration document is to be issued; and

(c) Motor vehicles operated by a motor carrier under a non-negotiable certificate or permit issued by the department of vehicle regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky, may be inspected by the post provost or similar officer of the camp, post or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle.

(e) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name, shall be accompanied by one of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the county clerk may accept on behalf of the department of vehicle regulation evidence of ownership provided the applicant by the United States department of defense;

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the department of vehicle regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle when registration or title is sought in this state, together with the vehicle transaction record, and its supporting documentation, on the following points:

(a) He shall ensure that the vehicle transaction record and each of its copies are legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the vehicle transaction record, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the transaction record; and

(d) After exercising due diligence in inspecting the vehicle, the vehicle transaction record, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided, his first name, middle initial and last name, and his title, the name of the county in which he serves and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfuly altered vehicle identification number;

(c) The vehicle transaction record and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

HB 686, AN ACT relating to school bus and church bus passenger safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.370 is amended to read as follows:

(1) Whenever any school bus or church bus used in the transportation of children is stopped upon a highway for the purpose of receiving or discharging passengers, the operator of a vehicle approaching from any direction shall bring his vehicle to a complete stop and shall not start up or attempt to pass until the bus has completed receiving or discharging passengers and has been put into motion; Provided, That this stop requirement shall not apply to vehicles proceeding in the opposite direction from a church or school bus which is stopped upon a *multi-lane highway of four (4) or more lanes* [~~highway where multi-lane roadways providing for opposite directions of travel are separated by a raised, depressed, mountable or non-mountable median~~].

(2) Subsection (1) shall be applicable only in the event the bus bears on the front and rear a plainly visible sign containing the words "School Bus" or "Church Bus," whichever is appropriate, in letters not less than six (6) inches in height, which can be covered when the vehicle is not in use as a school or church bus.

Section 2. KRS 189.375 is amended to read as follows:

No school bus shall be licensed or operated for the transportation of school children unless it has a folding sign on the driver's side thereof with letters at least 6" in height displaying the word "stop" on both sides. Before stopping the school bus and while loading or discharging school children the driver shall open out the sign so that it will be plainly visible to traffic approaching from both directions. No driver shall stop a school bus for loading or unloading purposes in a no passing area such as a hill or curve which does not afford reasonable visibility to approaching motor vehicles from both directions. No driver shall stop a school bus or church bus and allow it to remain standing for the purpose of *receiving passengers from or discharging passengers to the opposite side of the road on a multi-lane highway of four (4) or more lanes* [~~discharging passengers whose immediate destination is on the opposite side of the road or to receive passengers waiting on the opposite side of the road on a divided highway where the roadways provided for opposite directions of travel are separated by a median~~]; Provided, That this provision does not prohibit the discharging of passengers who desire to cross the highway at a marked pedestrian crossing after the bus has proceeded.

HB 687, AN ACT relating to motor carrier driver qualifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.726 is amended to read as follows:

(1) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof has obtained a certificate of the department of vehicle regulation to the effect that the driver or chauffeur has met its requirements with respect to his health, vision, sobriety, intelligence, care, ability and experience. Certificates shall expire in the same month as the expiration date of the applicant's operator's license issued pursuant to KRS 186.410.

(2) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof is at least eighteen (18) years of age.

(3) The circuit clerk of each county shall:

(a) Act for the department of vehicle regulation for the purpose of issuing certificates referred to in subsections (1) and (4) of this section;

(b) Issue a certificate, when he has determined that the applicant has fully complied with the law governing applications;

(c) Report to the department of vehicle regulation not later than the week following that in which the certificates were issued;

(d) Keep adequate records of all moneys collected and remitted to the department of vehicle regulation;

(e) Keep in his office at all times available to the department of vehicle regulation a record of all certificates issued in his county.

(4) The cost of the certificate shall be as follows: if the applicant's operator's license expires within six (6) months or less, one dollar ($1); if within seven (7) to twelve (12) months, two dollars ($2); if within thirteen (13) to eighteen (18) months, three dollars ($3); and if within nineteen (19) to twenty-four (24) months, four dollars ($4); if within twenty-five (25) to thirty (30) months, five dollars ($5); if within thirty-one (31) to thirty-six (36) months, six dollars ($6); if within thirty-seven (37) to forty-two (42) months, seven dollars ($7); if within forty-three (43) to forty-eight (48) months, eight dollars ($8). These costs shall be paid into the state treasury and credited to the state road fund. The holder of such a certificate, at all times when operating a motor vehicle for hire, shall have the certificate in his possession indicating that he is a certified driver or chauffeur.

(5) The department may, for good cause, upon complaint or upon its own motion revoke or suspend any such certificate, and said person shall be entitled to a hearing before the department of vehicle regulation.

(6) Notwithstanding the above provisions, the secretary of the transportation cabinet may adopt by reference or set forth in its entirety the provisions of 49 CFR 391 in effect as of the date of this Act or as amended with respect to any motor vehicle registered in Kentucky.

Section 2. KRS 281.730 is amended to read as follows:

(1) No motor carrier shall require or permit any driver or chauffeur operating a motor vehicle for hire under a certificate or permit to remain continuously on duty for a longer period than twelve (12) hours, and when any such driver or chauffeur has been continuously on duty for twelve (12) hours he shall have at least eight (8) consecutive hours off duty. No motor carrier shall require or permit any such driver or chauffeur to remain on duty for a longer period than sixteen (16) hours in the aggregate in any twenty-four (24) hour period, and when a driver or chauffeur has been on duty sixteen (16) hours in the aggregate in any twenty-four (24) hour period he shall have at least ten (10) consecutive hours off duty. The period of release from duty required by this section shall be given at such places and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. No period off duty shall be deemed to break the continuity of service unless it is for at least three (3) consecutive hours and is given at such a place and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. In case of an unforeseen emergency not resulting from the negligence of the carrier or his agents, servants or employes, the driver or chauffeur may complete his run or tour of duty, if the run or tour of duty but for the delay caused by the emergency could reasonably have been completed without a violation of this section. The bureau may require such reports as it deems necessary for the enforcement of this section.

(2) The provisions of this section shall not apply to matters relating to the wages, hours, working conditions, and conditions of employment of the employes of motor carriers when such employes shall be so employed and working under and pursuant to a collective bargaining agreement entered into between their employer and the employes' collective bargaining agent or representative, for and on behalf of such employes; provided that said collective bargaining agent or representative is a bona fide labor organization.

(3) Notwithstanding the above provisions, the secretary of the transportation cabinet may adopt by reference or set forth in its entirety the provisions of 49 CFR 395 in effect as of the date of this Act or as amended with respect to any motor vehicle registered in Kentucky.

HB 706, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon *any portion of* the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the *right of way* [~~main traveled portion~~] of such a highway in such a manner and to such extent that it is impossible to avoid the occupation *of the shoulder of a state maintained highway* [~~of the main traveled portion~~] or impracticable to remove it from *the shoulder of* the highway until repairs have been made or sufficient help obtained for its removal. *In no event shall a disabled vehicle remain on the shoulder of a state maintained highway for twenty-four (24) hours or more*;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; *or*

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) *When* [~~Whenever~~] any police officer finds a vehicle standing upon such a highway in violation of this section, he may move *or cause to be moved* the vehicle, or require the operator or other person in charge of the vehicle to move it[~~, to a position off the paved or improved or main traveled part of the highway~~]. *The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.*

(3) *When* [~~Whenever~~] any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety *as provided in subsection (2) of this section.*

(4) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for handicapped persons;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(5) No person shall move a vehicle not lawfully under his control into any such prohibited area.

(6) The restrictions in subsection (4) (e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 2. KRS 189.752 is amended to read as follows:

(1) "State highway" means any public road maintained by the state department of highways.

(2) "Motor vehicle" means any vehicle propelled by an internal combustion engine capable of transporting persons or property. Motor vehicle shall not mean "moped" as defined in KRS 189.285.

(3) "Abandoned vehicle" means any automobile which is left upon the right-of-way of a state highway for *fifteen (15)* [~~seven (7)~~] days, whether or not it is fit for future use.

(4) "Owner" means the last registered owner.

Section 3. KRS 189.753 is amended to read as follows:

(1) Any motor vehicle left upon the right-of-way of a state highway for *fifteen (15)* [~~seven (7)~~] consecutive days shall be presumed an abandoned vehicle.

(2) The department of *state police* [~~vehicle regulation~~] shall locate abandoned vehicle on the right-of-way of state highways. *Upon determination that a vehicle is abandoned, and notwithstanding the provisions of KRS 189.450, the department of state police may order any person engaged in the business of storing or towing motor vehicles to remove the abandoned vehicle to a site chosen by such person.* The department shall determine, if possible, the ownership of such vehicle through the abandoned vehicle's license plates, serial number or other methods of determining ownership. *As soon as practicable* the owner shall be notified by mail, whether he is a Kentucky resident or a resident of another state, that the abandoned vehicle *was* [~~is~~] illegally upon public property*; the name and the address where the storage facility is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges;* and that *the vehicle may be sold pursuant to provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of such sale, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle* [~~such vehicle will become the property of the state unless removed within ten (10) days of the date of the notification~~]. [~~The owner shall be deemed to have been notified on the date the letter is mailed. If the vehicle is not removed by the owner within ten (10) days after notification, it shall become the property of the state. If ownership cannot be determined, the abandoned vehicle shall become the property of the state after the seventh (7th) consecutive day that it remains on a state highway. No notification shall be required if ownership cannot be determined. If ownership cannot be determined, the vehicle may be removed after seven (7) days. However, no other vehicle may be removed until after ten (10) days of the date of notification.~~]

(3) [~~The department of vehicle regulation shall notify the department of highways of the existence of abandoned vehicles not removed from the right-of-way. The department of highways shall remove such abandoned vehicles from the right-of-way to highway department property. The department of highways shall offer abandoned vehicles within its custody to private junk dealers, for sale if possible. The department of highways shall give public notice in a newspaper of general circulation advertising disposition of the vehicles at least seven (7) days prior to such disposition. Any proceeds from the sale of abandoned vehicles shall revert to the state road fund. The department of highways may dispose of abandoned vehicles not taken by private junk dealers by any local, state or federal solid waste disposal program.~~] The commissioner of *state police* [~~highways~~] shall make all rules and regulations necessary to carry out the provisions of this section [~~and KRS 189.751~~].

Section 4. KRS 376.275 is amended to read as follows:

(1) Any person engaged in the business of storing or towing motor vehicles, shall have a lien on the motor vehicle, for the reasonable or agreed charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of sixty days the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by registered letter of the time and place of the sale. This lien shall be subject to prior recorded liens.

(2) This lien shall apply to vehicles towed or stored pursuant to the order of any law enforcement officer, provided that the order is lawful and further provided that the owner of any vehicle so towed or stored be notified within five (5) days of the location of the vehicle and the amount of the towing and storage charges.

(3) The notification referred to in subsection (2) shall be by registered mail to the owner's address on the

certificate of title and registration for the vehicle. Notification properly mailed to said address shall be deemed to have been received.

The Committee Amendment No. 1 to HB 706 is as follows:

Amend printed copy of HB 706:

on page 7, lines 4 thru 25, delete Section 4 in its entirety.

HB 722, AN ACT relating to local air boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.132 is amended to read as follows:

(1) Any city or county, or city and county acting jointly, or any combination of two (2) or more cities and/or counties may establish a nonpartisan air board composed of six (6) members, or any city and county jointly other than an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members, or any existing six (6) member board, except a board established in an urban-county government, may be expanded to ten (10) members by joint action of the county and city.

(2) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(3) The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, such members shall be appointed by the mayor of the city;

(b) If the air board is established by a county, such members shall be appointed by the county judge/executive *except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (5) of this section and receive full voting privileges on matters brought before the airport board;*

(c) If the air board is established as a joint city-county air board such members shall be appointed jointly by the mayor of the city and the county judge/executive;

(d) If a combination of cities and/or counties establishes a joint air board, the mayors and/or county judge/executives involved shall jointly choose six (6) members, and shall jointly choose successors.

(4) The members of an air board composed of ten (10) members shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(5) Members of the board composed of six (6) members, shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(6) Members of the board composed of ten (10) members, shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided however that the mayor and the county judge/executive shall each make their initial appointments so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years; except that if an existing six (6) member board is being increased to a ten (10) member board, initial

appointments of the four (4) new members shall be made so that the mayor and the county judge/executive each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of these initial terms, successors shall be appointed for a term of four (4) years.

(7) Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board shall choose a chairman and vice-chairman who shall serve for terms of one (1) year. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost thereof shall be paid by the board.

(8) The board may employ necessary counsel, agents and employes to carry out its work and functions, and prescribe such rules and regulations as it deems necessary.

(9) The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. He shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. He shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(10) In the event that a joint air board is created by cities and/or counties, and thereafter a city or cities or county or counties desire to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. No such withdrawing city or cities, county or counties shall be entitled to return of any moneys or property advanced such board.

(11) A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, and of a ten (10) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(12) A board member may be replaced by the appointing authority upon a showing to such authority of misconduct as a board member or upon conviction of a felony. No board member shall hold any official office with the appointing authority.

SB 120, AN ACT relating to motor vehicle storage and towing liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.275 is amended to read as follows:

(1) Notwithstanding any general or special law to the contrary, when a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when said vehicles has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall ascertain the identity of the registered owner of the motor vehicle or leasee of a motor carrier as defined in KRS Chapter 281 and within seven (7) calendar days of the removal shall, by registered mail, notify the registered owner of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) In the event that a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of said facility shall provide the notice provided in subsection (1) of this section, by registered mail, to the registered owner of the motor vehicle or leasee of a motor carrier as defined in KRS Chapter 281 within seven (7) calendar days of recovery of, or taking possession of the motor vehicle. Said notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on said vehicle. When the owner of such facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all claims, liens and right to reimbursement, costs and expenses for the transportation and/or storage of that motor vehicle. In such instance, the vehicle shall be returned to the owner thereof.

(3) Any person engaged in the business of storing or towing motor vehicles, *who has complied with the aforementioned requirements of this section,* shall have a lien on the motor vehicle, for the reasonable [~~or agreed~~] charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of sixty (60) days the reasonable [~~or agreed~~] charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by registered letter *ten (10) days prior to* [~~of~~] the time and place of the sale. This lien shall be subject to prior recorded liens.

The Committee Substitute to SB 120 is as follows:

SB 120, AN ACT relating to motor vehicle storage and towing liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.275 is amended to read as follows:

(1) Notwithstanding any general or special law to the contrary, when a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when said vehicles has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the law enforcement agency whose jurisdiction geographically emcompasses the point from which the vehicle is towed or transported the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and the first lienholder noted on the certificate of title of said vehicle or carrier and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record and first lienholder of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle. The registered owner shall also be advised that he has the right to a hearing to determine the validity of the towing and/or transporting order of said vehicle. Said hearing shall be conducted pursuant to procedures established by the chief law enforcement official in the jurisdiction from which the vehicle was towed and/or transported.

(2) In the event that a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of said facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and the first lienholder noted on the certificate of title of said vehicle or carrier within ten (10) business days of recovery of, or taking possession of the motor vehicle. Said notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on said vehicle. When the owner of such facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, *who has substantially complied with the aforementioned requirements of this section,* shall have a lien on the motor vehicle, for the reasonable or agreed charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of sixty (60) days the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner *and first lienholder* has been notified by *certified mail ten (10) days prior to* [~~registered letter of~~] the time and place of the sale. *Should the proceeds of the sale of any vehicle pursuant to this section be insufficient to satisfy accrued charges for towing, transporting, and/or storage, said sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, and/or storage charges by the owner or responsible casualty insurer of said vehicle.* This lien shall be subject to prior recorded liens.

The Committee on Judiciary-Civil reported HB 226 with Committee Amendment attached thereto, HB 680, and SB 240, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 226, AN ACT relating to the determination of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

For all legal purposes, the occurrence of human death shall be determined in accordance with the usual and customary standards of medical practice, provided that death shall not be determined to have occurred unless the following minimal conditions have been met:

(1) When respiration and circulation are not artificially maintained, there is an irreversible cessation of spontaneous respiration and circulation; or

(2) When respiration and circulation are artificially maintained, and there is a total and irreversible cessation of all brain function, including the brain stem and that such determination is made by a licensed physician.

The Committee Amendment No. 1 to HB 226 is as follows:

Amend printed copy of HB 226:

On page 1, line 14, delete "*a*" and insert in lieu thereof "*two (2)*"; and

on page 1, line 15, delete "*physician*" and insert in lieu thereof "*physicians*".

HB 680, AN ACT relating to marital property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.190 is amended to read as follows:

(1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:

(a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;

(b) Value of the property set apart to each spouse;

(c) Duration of the marriage; and

(d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

(2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(a) Property acquired by gift, bequest, devise, or descent;

(b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(c) Property acquired by a spouse after a decree of legal separation;

(d) Property excluded by valid agreement of the parties; and

(e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.

(3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property.

The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

(4) If the retirement benefits of one (1) spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions or any other benefit of a retirement system or plan regulated by the employes retirement income security act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under section 401(a) of the internal revenue code of 1954 as amended.

SB 240, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:

(1) First judicial district.

(2) Second judicial district.

(3) Third judicial district.

(4) Fourth judicial district.

(5) Eighth judicial district.

(6) Ninth judicial district.

(7) Eleventh judicial district.

(8) Twelfth judicial district.

(9) Thirteenth judicial district.

(10) Fourteenth judicial district.

(11) Fifteenth judicial district.

(12) Eighteenth judicial district.

(13) Twenty-first judicial district.

(14) Twenty-fourth judicial district.

(15) Twenty-seventh judicial district.

(16) Twenty-eighth judicial district.

(17) Twenty-ninth judicial district.

(18) Thirty-second judicial district.

(19) Thirty-fourth judicial district.

(20) Thirty-fifth judicial district.

(21) Thirty-eighth judicial district.

(22) Fortieth judicial district.

(23) Forty-first judicial district.

(24) Forty-sixth judicial district.

(25) Forty-eighth judicial district.

(26) Fiftieth judicial district.

(27) Fifty-first judicial district.

(28) Fifty-third judicial district.

(29) Fifty-fourth judicial district.

(30) *Fifty-fifth judicial district.*

(31) Fifty-sixth judicial district.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: SB 96, HB 262, HB 247, HB 398, HB 302.

Education: HB 840, SB 271.

Judiciary-Criminal: HB 805.

Natural Resources and Environment: HB 758, HB 743, HB 33, HB 768, HB 839.

State Government: HB 815, HB 816.

Banking and Insurance: SB 277, SB 275, SB 274, HB 807.

Labor and Industry: HB 819.

Energy: HB 505, HB 810.

Representative Heleringer moved that HB 257 be withdrawn. Agreed.

Representative Ellington moved that the rules be suspended for the purposes of recording votes. Agreed.

Representative Ellington requested that he be recorded as voting "yea" on HB 362. Agreed.

Representative Donnermeyer requested that he be recorded as voting "yea" on HB 208. Agreed.

Representative Burnette requested that his vote be changed from "nay" to "yea" on HB 211. Agreed.

Representative Dawahare moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Dawahare moved the adoption of the following HR 124:

HR 124, A RESOLUTION adjourning the House of Representatives in honor of Marlow Tackett of Pikeville, Kentucky.

WHEREAS, the son of Toy and Fronie Tackett, Marlow was born on February 28, 1946 in Dorton, Kentucky; and

WHEREAS, Marlow Tackett is a loving and devoted father to his sons David Lee, age nineteen, Keith Jeffrey, age fourteen, and daughter Wendy, age eleven; and

WHEREAS, Marlow Tackett is a gifted musician and has been a successful entertainer for over twenty years; and

WHEREAS, the distinguished proprietor of Marlow's Country Palace in Pikeville, Marlow Tackett is known for his altruistic contributions to the local community as well as throughout eastern Kentucky; and

WHEREAS, an honorary member of over sixty civic organizations, Marlow Tackett has dedicated his life to the betterment and enrichment of his needy fellow citizens; and

WHEREAS, Marlow Tackett recently sponsored his Ninth Annual Christmas Benefit Show for needy individuals throughout the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House proudly honor Marlow Tackett of Pikeville, Kentucky, musician and entertainer extraordinaire.

Section 2. That this honorable body recognizes and commends Marlow Tackett for his immeasurable contributions to the citizens of this great state and to the entertainment industry.

Section 3. That the House hails Marlow Tackett to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Tuesday, March 4, 1986, it does so in honor of a great humanitarian, Marlow Tackett of Pikeville, Kentucky.

Section 5. That the Clerk of the House is directed to transmit a copy of this resolution to Marlow Tackett, Route 3, P. O. Box 1614, Pikeville, Kentucky 41501.

HR 124 was adopted by voice vote.

Representative Scorsone moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following HR 123:

HR 123, A RESOLUTION honoring Loris E. Points, Mary Ann Murray, and Jean DeCoursey.

WHEREAS, the Lexington area chapter of the American Association of University Women six years ago established awards for Outstanding Women of the Lexington-Bluegrass area; and

WHEREAS, the 1986 honorees are Loris E. Points, Mary Ann Murray, and Jean DeCoursey; and

WHEREAS, these awards are an important part of the local observance of Women's History Week; and

WHEREAS, the nominees for this honor are selected on the basis of their work toward equity for women and positive societal change; and

WHEREAS, Ms. Points, a teacher at Tates Creek High School, teaches a course entitled "Male-Female Roles in U.S. History," is past president of the Northside Neighborhood Association, and is a member of the Commonwealth Institute for Teachers; and

WHEREAS, Ms. Murray, an academic adviser for Support Services at the University of Kentucky, teaches and lectures in the areas of women's studies and Appalachian studies, and has also been instrumental in establishing a day-care facility and a juvenile shelter in Georgetown; and

WHEREAS, Ms. DeCoursey, executive director of the Lexington YWCA, has labored long in the causes of women, children, and the handicapped, is past president of the United Way Agency Executive Association, and past president of the Pilot Club, developed the YWCA latchkey program, and was instrumental in organizing the Anchor Club at Bryan Station High School;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes these outstanding Kentucky women.

Section 2. That when the House adjourns this day, Tuesday, March 4, 1986, it does so in honor of Loris E. Points, Mary Ann Murray, and Jean DeCoursey.

Section 3. That copies of this resolution be sent to Loris E. Points, Mary Ann Murray, and Jean DeCoursey.

HR 123 was adopted by voice vote.

Representative Burnette moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Burnette moved the adoption of the following HR 119.

HR 119, A RESOLUTION in memory of Jo Westpheling.

WHEREAS, Jo Westpheling, editor of the Hickman Courier and advisor to several Kentucky governors, died yesterday after a long illness; and

WHEREAS, Jo Westpheling spent nearly fifty years in journalism and, with her husband Paul, operated the family's weekly newspaper at Hickman; and

WHEREAS, Jo Westpheling's long and distinguished service to the Democratic Party included being a delegate at-large to five democratic presidential conventions, chairing Bert Combs's gubernatorial campaign in 1959 and co-chairing Wendell Ford's gubernatorial campaign in 1971, and membership for sixteen years on the party's state central executive committee; and

WHEREAS, Jo Westpheling served the Commonwealth in 1974 as executive director and later chairman of the Kentucky Bicentennial Commission, and three years later as regional chairman of the Kentucky Tourism and Travel Council; and

WHEREAS, Jo Westpheling was a devoted wife and mother;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House laments the loss of this outstanding citizen and friend and extends its condolences to her bereaved family.

Section 2. That when the House adjourns this day, Tuesday, March 4, 1986, it does so in memory of Jo Westpheling.

Section 3. That copies of this resolution be sent to her husband, Paul Westpheling, Jr., her son, Paul Westpheling III, and her daughter, Mary Jo Butts.

HR 119 was adopted by voice vote.

Representative Noe moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Noe moved the adoption of the following HR 120:

HR 120, A RESOLUTION recognizing National Teachers Day.

WHEREAS, our system of education is the cornerstone of everything we value in the nation and in the Commonwealth; and

WHEREAS, the teachers in our education system are responsible for passing knowledge from one generation to the next and encouraging students to expand that body of knowledge; and

WHEREAS, the members of the teaching profession should be proud of their choice of professions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Tuesday, March 4, 1986, be recognized as National Teachers Day and that on this day the teachers of the Commonwealth be honored for their great dedication and significant contributions.

HR 120 was adopted by voice vote.

Representative Hancock moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Hancock moved the adoption of the following HR 112:

HR 112, A RESOLUTION in honor of Kentucky Youth Art Month.

WHEREAS, March is Kentucky Youth Art Month; and

WHEREAS, an organization of public and private school art teachers and professors, The Kentucky Art Education Association, sponsors Kentucky Youth Art Month; and

WHEREAS, throughout the month of March Kentucky schools will host art exhibitions and juried art shows, as well as sponsor various community activities emphasizing the theme "Put your heart into art"; and

WHEREAS, A March 4 reception in the Capitol will open a month-long exhibition there of student art from throughout the state; and

WHEREAS, this honorable body is pleased to acknowledge the vital importance of recognizing and sharing artistic excellence and thereby promoting creative expression;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes Kentucky Youth Art Month.

Section 2. That copies of this resolution be sent to Ms. Patricia Terry, chairman of the Kentucky Youth Art Month, for distribution to members of the Executive Council of the Kentucky Art Education Association, Nancy Farrell, Wanda Felice, Jerry Speight, Juanita Gilliam, June May, James Terry, Crickette Todd, Martha Daugherty, Floyd Bryant, Diane Gregory, Fred Martens, Linda Whittenberg, and Patricia Terry.

HR 112 was adopted by voice vote.

Representative Clarke moved that the rules be suspended to reassign HB 854 to the Committee on Judiciary-Civil. Agreed.

Representative Pearman moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Pearman moved that a call of the roll be taken to show co-sponsors of HR 122. Agreed.

The following members requested that their names be added as co-sponsors of HR 122: Allen, Arnold, Bendl, Bennett, Blevins, F. Brown, M. Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cline, Dawahare, Donnermeyer, Ellington, Ford, Gedling, Gregory, J. Harper, Head, Hines, Holloway, Keith, Kerr, Lefevers, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Moberly, Napier, Noland, O'Brien, Pearman, Priddy, Reinhardt, B. Richardson, Siler, Stewart, Stone, Todd, White, Worthington, Yates.

Representative Pearman moved the adoption of the following HR 122:

HR 122, A RESOLUTION honoring the United States Merchant Marine.

WHEREAS, the United States Merchant Marine has served America with pride and honor since the Revoluntionary War; and

WHEREAS, the Merchant Marine record of service to this country is an honorable and proud one; and

WHEREAS, in World War II, thousands of merchant mariners lost their lives and hundreds of merchant mariners were held as prisoners of war; and

WHEREAS, the Merchant Marine has served this country well, and its admirable record is a source of pride for citizens throughout the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby honor the United States Merchant Marine.

Section 2. That when the House of Representatives does adjourn this day, March 4, 1986, it do so in honor of the United States Merchant Marine.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby honor the United States Merchant Marine.

Section 2. That when the House of Representatives does adjourn this day, March 4, 1986, it do so in honor of the United States Merchant Marine.

Section 3. That a copy of this resolution be dispatched to the Headquarters of the United States Merchant Marine.

HR 122 was adopted by voice vote.

Representative Allen moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Allen moved the adoption of the following HR 105:

HR 105, A RESOLUTION requesting the public service commission to study the feasibility of providing all residents of Butler County toll-free access to their county seat.

WHEREAS, many residents of Butler County are not able to call Morgantown, the county seat, except by paying for a long distance toll call; and

WHEREAS, the lack of countywide toll-free calling hampers the ability of schools and governmental offices to serve all residents equally and efficiently, and places a considerable burden on many county residents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The public service commission is requested to study the feasibility of providing all residents of Butler County toll-free access to the county seat.

Section 2. The commission is further requested to present its findings to the Interim Joint Committee on energy no later than February 1, 1987.

Section 3. A copy of this resolution shall be sent to the public service commission, to Continental Telephone Company of Kentucky, to Logan County Cooperative, and to South Central Bell.

HR 105 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Donnermeyer, HB 149, HB 736; Representative Ellington, HB 677; Representative Freibert, HB 135; Representative Hancock, HB 245; Representative Handy, HB 510; Representative Lile, HB 105, HB 494; Representative Lyne, HB 150, HB 665; Representative Napier, HB 665; Representative Scorsone, HB 618.

Representative J. Harper requested that his name be withdrawn as co-sponsor of HB 636.

Announcements

The following meetings were announced:

Committee on Cities: Wednesday, March 5, 1986, 8:30 a.m., Room 104.

Committee on Rules: On adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 5, 1986.

On the roll call the vote was yeas 77—Allen, Arnold, Bendl, Bennett, Blandford, Blevins, F. Brown, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hines, Holloway, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Pearman, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Rose, Scorsone, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, White, Williams, Worthington, Yates. Nays 3—Bronger, Holbrook, LeMaster.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 5, 1986

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend John F. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 4, 1986, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 916, by Representative Lear: An ACT relating to pesticide use.

HB 917, by Representatives Keith, Todd and Jensen: AN ACT relating to insurance.

HB 918, by Representative White: AN ACT relating to arson and its investigation.

HB 919, by Representatives Stumbo, Worthington, Rapier, Donnermeyer and Blandford: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 920, by Representative Burch: AN ACT relating to sales tax.

HB 921, by Representative Noe: AN ACT relating to revenue and taxation.

Senate Message

Announcing passage of SB 235, SB 267, SB 269, SB 270, SB 288, SB 316, HB 61 with Senate Amendment, HB 218 with Senate Amendment, HB 246 by way of Committee Substitute and Senate Amendment, HB 315 with Senate Amendment, HB 417 with Senate Amendment, HB 586 with Senate Amendment, HCR 51.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 875.

Banking and Insurance: **HB 857, HB 877, SCR 59, SB 249.**

Cities: **HB 858.**

Counties and Special Districts: **HB 859, HB 879.**

Education: **HB 864, HB 866, HB 872.**

Energy: **HB 860, HB 861.**

Health and Welfare: **HB 867, HB 868, HB 880, SCR 57.**

Judiciary-Civil: **HB 862, HB 883.**

Judiciary-Criminal: **HB 855.**

Labor and Industry: HB 856, HB 874, HB 876.

Natural Resources and Environment: HB 869, HB 871, HB 878.

State Government: HB 882, HJR 116, HCR 117, HB 863.

Transportation: HB 865, HB 870, HB 881, SB 283, HB 873, HB 886.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: SB 199, HB 788, HB 525.

Education: HB 771, HJR 100.

Health and Welfare: HB 787.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Health and Welfare: HB 25.

Report of Committees

The Committee on Rules reported HB 534, HB 574, HB 613, HB 642, HB 726, SB 54, SB 55, SB 56, SB 58, SB 59, SB 105, SB 106, HB 294, HB 360, HB 589, HB 674, HB 692 and HB 709 have been posted for passage March 6, 1986.

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: HB 545.

The Committee on Business Organizations and Professions reported HB 280, HB 718, HB 794 with Committee Amendment attached thereto, and HB 808 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 280, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.110 is amended to read as follows:

(1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge/executive shall thereupon constitute a county alcoholic beverage control administrator for the county, *except in counties which contain cities of the first class. In such counties, the county sheriff shall thereupon constitute a county administration for both city of the first class and county; however, any city of the second, third or fourth class may create the office of city administrator as provided for in KRS 241.160.* [~~However,~~] The county judge/executive *or county sheriff* may decline to accept said office, or after accepting same he may resign therefrom, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, he may thereupon appoint a person at least *twenty-four (24)* [~~thirty (30)~~] years of age, who at the time of his appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive *or county sheriff* as county alcoholic beverage control administrator for such county. Before entering upon his duties as such county alcoholic beverage control administrator appointed by the county judge/executive *or county sheriff* the appointee shall take the oath prescribed by section 228 of the constitution and execute a bond with a good corporate surety in the penal sum of one thousand dollars ($1,000). The cost of the bond shall be borne by the county. Upon the qualification of such person as county alcoholic beverage control administrator for such county, he shall immediately notify the board.

(2) The functions of such county alcoholic beverage control administrator, appointed by the county judge/executive *or county sheriff*, shall be the same as set out in KRS 241.140.

(3) The compensation of such county alcoholic beverage control administrator, appointed by the county judge/executive *or county sheriff*, shall be fixed by the fiscal court in accordance with KRS 64.530, *except in*

counties with cities of the first class wherein the county judge/executive or county sheriff shall fix compensation. The county judge/executive may also appoint such *hearing officers,* investigators and clerks as are deemed necessary for the proper conduct of such county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530 *except in counties with cities of the first class wherein the county judge/executive or county sheriff shall fix their salaries,* and they will serve at the pleasure of the county judge/executive *or county sheriff.*

(4) No person shall be a county alcoholic beverage control administrator, as herein provided for, an investigator or an employe of the county under the supervision of such county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.

(5) The said county alcoholic beverage control administrator, appointed by the county judge/executive *or county sheriff,* and his investigators, shall have full police powers of peace officers, and *may be appointed deputy sheriffs.* Their jurisdiction shall be over the unincorporated areas of such county and within the corporate limits of any city therein not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge/executive *or county sheriff,* shall be made pursuant to KRS 241.150.

Section 2. KRS 241.120 is amended to read as follows:

(1) The county judge/executive *or county sheriff* shall be disqualified to act as county administrator by any fact that would disqualify a person under KRS 241.100 from acting as a member of the board.

(2) If he is disqualified to act as county administrator, or if a vacancy in that office occurs for any other reason, the judge of the circuit court of that county shall appoint to that position a person at least *twenty-four (24)* [~~thirty (30)~~] years of age who, at the time of appointment, has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify.

(3) The appointee shall serve during the unexpired portion of the term or until the county judge/executive *or county sheriff* is able and willing to qualify.

Section 3. KRS 241.130 is amended to read as follows:

(1) The county judge/executive *or county sheriff,* or the person appointed county alcoholic beverage control administrator under KRS 241.120, shall serve as county administrator without compensation.

(2) Before entering upon his duties as county administrator, the county judge/executive *or county sheriff* or the appointee shall take the oath prescribed by section 228 of the constitution, and execute a bond with a good corporate surety in the penal sum of one thousand dollars ($1,000). The cost of the bond shall be borne by the county. Upon the qualification of any person as county administrator, he shall immediately notify the board.

Section 4. KRS 241.140 is amended to read as follows:

The functions of each county administrator shall be the same, with respect to local licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a county administrator may be less stringent than statutes relative to alcoholic beverage control or than the regulations of the board. No regulation of a county administrator shall become effective until it has been approved by the board. If any city appoints its own administrator as provided for in KRS 241.170, the county *judge/executive or county sheriff* [~~administrator~~] in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city.

Section 5. KRS 241.160 is amended to read as follows:

The legislative body of any city of the [~~first,~~] second, third or fourth class in which traffic in alcohol beverages is not forbidden by KRS chapter 242 shall by ordinance create the office of city alcoholic beverage control administrator, or shall assign the duties of this office to a presently established city office.

Section 6. KRS 241.170 is amended to read as follows:

(1)[~~The city administrator in each city of the first class, and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The city administrator in each city of the first class, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with such city. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.~~

~~(2)~~] The city administrator in each city of the second, third or fourth class shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor. *The jurisdiction of the city administrator shall be coextensive with such city.*

(2)[~~(3)~~] No person shall be a city administrator, an investigator or an employe of the city under the supervision of the city administrator, who would be disqualified to be a member of the board under KRS 241.100.

Section 7. KRS 241.990 is amended to read as follows:

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employe in violation of subsection *(2)* [~~(3)~~] of KRS 241.170, or acted as an urban-county administrator in violation of KRS 241.230, shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a felony and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than two (2) years, or both.

SECTION 8. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

In counties containing cities of the first class, the county sheriff shall receive thirty percent (30%) of the revenue collected from licensing, pursuant to KRS 243.020 to 243.670, to help defray the costs of executing his duties under this chapter. The monies received by the sheriff under this section are to be used for authorized, official expenses which are operating expenses of the sheriff's office and shall not be considered as part of his compensation. The remaining seventy percent (70%) of the revenue shall be turned over to the county or municipality in which the license was issued.

SECTION 9. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The position of county alcoholic beverage control administrator shall not be considered an office which would prohibit the holding of another elected position or officer.

HB 718, AN ACT relating to landscape architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323A.060 is amended to read as follows:

(1) Fees for the following services shall be established by *regulation* [~~the rules~~] of the board[~~, and in no case shall they exceed the following schedule~~]:

(a) For an examination*;*[~~.................... $100.00~~]

(b) For the original license certificate*;*[~~.................... $ 50.00~~]

(c) For the restoration of an expired license*; and*[~~.................... $125.00~~]

(d) For a license to a landscape architect satisfactorily licensed in another state.[~~.................... $ 75.00~~]

(2) The proper fee as *established by regulation* [~~prescribed in subsection (1) of this section~~] shall be paid to the board, and shall not be refunded in whole or in part.

Section 2. KRS 323A.070 is amended to read as follows:

Any applicant who fails to pass an examination may, by paying an additional fee *to be established by* *regulation of the board*[~~, not to exceed thirty-five dollars ($35) per part failed, and not to exceed one hundred dollars ($100) for repetition of the whole examination~~], enter any subsequent examination held within three (3) years from the date of examination he failed to pass.

Section 3. KRS 323A.100 is amended to read as follows:

(1) [~~(a)~~] All landscape architects desiring to continue practice shall annually, prior to July 1, secure from the board a renewal certificate upon the payment of a fee *to be established by regulation of the board. The failure of any licensee to renew his license annually in June shall not deprive him of the right of renewal, but the fee to be paid for the renewal of a license after June shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. But the maximum fee for delayed renewal shall not exceed twice the normal renewal fee for each year license is not renewed* [~~of not more than $35~~]. Not later than May 1 of each year the board will notify by mail all landscape architects of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the landscape architect shall furnish the information required by such form.

(2)[~~(b)~~] Failure of any landscape architect to secure his renewal certificate within sixty days after July 1 shall constitute sufficient cause for the board to revoke his license.

(3)[~~(c)~~] The board may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees, *and may require that the person seeking restoration return to the status of a new applicant.*

[~~(2) A licensed landscape architect may voluntarily surrender his license to the board and thereby be relieved of the annual renewal fee. After surrendering his license, he shall not be known as a licensed landscape architect and shall desist from the practice thereof. Within five years from the time of surrender of the license he may again qualify for a license without examination by the payment of the required fee. If five years thereafter have elapsed, he shall return to the status of a new applicant.~~]

Section 4. KRS 323A.190 is amended to read as follows:

Each member of the board shall receive an amount *to be established by regulation of the board* [~~not to exceed $50~~] for each day or part thereof spent in the performance of his official duties, including time spent in necessary travel, and in addition, shall be reimbursed for all proper traveling and incidental expenses incurred in connection with said duties.

Section 5. KRS 323A.200 is amended to read as follows:

A quorum of the board shall consist of at least *three (3)* [~~two (2)~~] members. The concurring votes of *three (3)* [~~two (2)~~] members shall be considered as the action of the board, except in the case of revoking a license, in which case, the unanimous vote of the board shall be required.

HB 794, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.515 is amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, shall not be less than fifteen percent (15%) nor more than sixteen percent (16%) at the discretion of those tracks averaging over nine hundred thousand dollars ($900,000) in pari-mutuel handle per racing day. The commission at those tracks averaging nine hundred thousand dollars ($900,000) or less in pari-mutuel handle per racing day, at the discretion of such track, shall not be less than sixteen and one half percent (16 1/2%) nor more than seventeen and one half percent (17 1/2%) in races where the patron is required to select one (1) horse, except that for the purposes of races conducted under the auspices of the quarter horse and appaloosa commission shall not exceed seventeen percent (17%) of the gross amount handled, and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by

the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) *or more* horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The minimum wager to be accepted by any licensed association shall be two dollars ($2.00). The minimum pay-off on a two dollar ($2.00) wager shall be two dollars and twenty cents ($2.20); provided, however, in the event of a minus pool, the minimum pay-off for a two dollar ($2.00) wager shall be two dollars and ten cents ($2.10).

(4) The racing association averaging nine hundred thousand dollars ($900,000) or less per racing day shall pay to the backside improvement fund an amount equal to one-half of the one percent (1/2 of 1%) of its commissions.

Section 2. KRS 230.210 is amended to read as follows:

As used in KRS 230.210 to 230.360 unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky state racing commission under KRS 230.300 and engaged in the conduct of a recognized thoroughbred race meeting;

(2) "Commission" means the Kentucky state racing commission;

(3) "Commissioner" means a member of the Kentucky state racing commission;

(4) "Secretary" means the secretary of the Kentucky state racing commission;

(5) "Thoroughbred race or thoroughbred racing" shall include that form of horse racing in which each horse participating in such race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey.

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in such a race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey.

(7) "Thoroughbred race meeting" means horse racing run on the flat *or over jumps* at an association licensed and regulated by the State Racing Commission, and may include both thoroughbred racing and appaloosa racing.

Section 3. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky state racing commission which shall be an independent agency of state government. The commission shall consist of nine (9) members[~~, seven (7) of whom shall be~~] appointed by the governor. [~~One (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives.~~] In making appointments, the governor shall secure broad representation within the thoroughbred industry, to include appointment of no fewer than two (2) breeders, no fewer than two (2) horsemen, and the geographic areas in which licensed racing associations are located shall be considered. Recommendations for said appointments shall be sought from various industry groups, to include the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky division of the Horsemen's Benevolent and Protective Association, and other interested organizations. At least one (1) of the members appointed by the governor shall have no financial interest in the business or industry regulated. *Effective July 15, 1986, two (2) members shall be appointed for one (1) year terms, two (2) for two (2) year terms, two (2) for three (3) year terms and three (3) for four (4) year terms* [~~The seven (7) members appointed by the governor shall serve a term beginning July 1, 1982 and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified~~]. Thereafter, *all* [~~the seven (7)~~] members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. [~~The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years beginning July 1, 1982, and shall serve until their successors are appointed and duly qualified.~~] Any vacancy on the commission shall be filled pursuant to the requirements and procedures for original appointments. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The commission shall

designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of such offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 4. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or Appaloosa racing or interfere with the orderly conduct of thoroughbred racing or Appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.3611 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable rules, regulations and conditions under which thoroughbred horse racing and Appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting[~~, except that the commission shall not prefer by regulation or otherwise any licensees in their contractual relations with one another~~];

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission; *and*

(5) The commission shall establish by regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(7)[~~(6)~~] The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8)[~~(7)~~] The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 5. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in thoroughbred racing or appaloosa racing at a thoroughbred race meeting in the commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employe, racing official, association employe, or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. *An applicant for a license shall submit to the commission fingerprints as may be required and such other information as may be necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky state police and the federal bureau of investigation in order to conduct a criminal history background check of an applicant.* The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all thoroughbred race meetings in the commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under this chapter.

Section 6. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only.by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) Other provisions of the Kentucky Revised Statutes notwithstanding, the commission shall permit a licensed association to conduct pari-mutuel wagering on racing conducted at another licensed association in the Commonwealth. Such wagering shall form a common pool with wagering conducted by the association conducting the racing. The commission shall also permit licensed associations to conduct pari-mutuel wagering on special event races conducted in other states or foreign countries, which are determined to be of sufficient national or international significance or interest to warrant interstate wagering. All such wagering shall form a common pool and shall be conducted in accordance with applicable federal law.

(3) The take-out for pari-mutuel wagering conducted under subsection (2) of this section shall be an amount equal to that withheld under the provisions of KRS 138.515. Gross revenues retained from such wagering, after payment of the pari-mutuel tax only, shall be applied to purses in the same percent ratio as gross revenues from on-track pari-mutuel wagering, after payment of the pari-mutuel tax only, are applied to purses. Remaining revenues shall be apportioned by contractual agreement between the association conducting the racing and the association conducting the wagering under subsection (2). The pari-mutuel tax credit permitted in KRS 138.510 shall not apply to pari-mutuel wagering conducted under subsection (2) of this section.

(4) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(5) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

(6) The commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; provided that all proceeds from such wagering, after expenses are deducted, be used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the commission may not issue a license until it has received written approval from the affected track. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations of the commission.

Section 7. KRS 230.3611 is amended to read as follows:

A thoroughbred racing association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system shall not be allowed to conduct any *mutuel* pool where *a patron selects* [~~it is required to select~~] more than two (2) *betting interests in a single race* [~~horses~~].

Section 8. KRS 230.374 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS 230.361 to 230.373 shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance and relief of owners, trainers, jockeys, valets, exercise boys, grooms, stable attendants, pari-mutuel clerks and other racing personnel employed in connection with racing, and their wives and children, who can demonstrate their need for financial assistance connected with death, illness or off-the-job injury and are not otherwise covered by union health and welfare plans, workmen's compensation, social security, public welfare, or any type of health, medical, death or accident insurance. Said fund may also purchase or lease property and acquire other assets necessary to operate a home for aged and needy persons described above. Said sums shall be paid on or before December 31 in each year, provided that no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission *and the auditor of public accounts* [~~, in its discretion,~~] *are* [~~is~~] satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth above and that no part of the funds paid to the fund by the commission or any net earnings of the fund inure to the benefit of any private individual, director, officer or member of the fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 9. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency independent of state administrative departments and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons *appointed by* [~~.~~] the governor. [~~shall appoint seven (7) members and~~] At least one (1) of these members shall have no financial interest in the business or industry regulated. [~~The president pro tem of the senate shall appoint one (1) member and the speaker of the house shall appoint one (1) member~~]. *Effective July 15, 1986, two (2) members shall be appointed for one (1) year terms, two (2) members for two (2) year terms, two (2) members for three (3) year terms and three (3) members for four (4) year terms.* [~~The seven (7) members appointed by the governor shall serve a term beginning July 1, 1982, and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified.~~] Thereafter, *all* [~~the seven (7)~~] members [~~appointed by the governor~~] shall serve a term of four (4) years or until their successors are appointed and duly qualified. [~~The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years beginning July 1, 1982, and shall serve until their successors are appointed and duly qualified.~~]

(3) The commission shall biennially make a full report to the general assembly of its proceedings for the two-year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(4) The commission may appoint one (1) or more deputy commissioners and assistant deputy commissioners who shall perform such duties as prescribed by the commission.

(5) The members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend.

Section 10. KRS 230.660 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.650, the commission may employ, at reasonable compensation, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any standardbred horse race meeting and to the best interest of standardbred racing. The commission for the purpose of maintaining integrity and honesty in standardbred racing shall prescribe by rule the powers and duties of the persons employed under this section or performing duties rendering services to an association. The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.610 to 230.760 *or by the commission from commission funds,* in such manner and in such proportions as the commission may by rule provide.

(2) The compensation of the employes referred to in this section shall be paid by the licensee directly or to the commission, as the commission shall direct the conducting of the standardbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission and costs of operation of the commission including but not limited to office rental, expenses, utilities, commissioners' actual expenses, etc. shall be prorated among and paid by the various associations licensed under KRS 230.610 to 230.760 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(3) Each person, as a condition precedent to the privilege of receiving a license under KRS 230.610 to 230.760 to conduct standardbred horse race meetings shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section.

Section 11. KRS 230.700 is amended to read as follows:

Every person not required to be licensed under KRS 230.690 who desires to participate in standardbred horse racing in the Commonwealth as a horse owner, trainer, driver, apprentice driver, agent, stable employe, racing official, association employe, mutuel clerk or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interests of standardbred horse racing and the maintenance of the honesty, integrity, and high quality thereof. *An applicant for a license shall submit to the commission fingerprints as may be required and such other information as may be necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky state police and the federal bureau of investigation in order to conduct a criminal history background check of an applicant.* Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all standardbred horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under KRS 230.610 to 230.760. Fees for all licenses issued under this section shall be prescribed by and paid to the commission.

SECTION 12. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an equine industry program at the University of Louisville, under the general control and direction of the university. The purpose of the equine industry program is to provide training and educational opportunities in the horse racing industry relating to, but not limited to, finance, management, marketing, regulation and administration aspects of the horse racing industry, in accordance with the industry needs as determined by the university.

(2) There is hereby created a trust and revolving fund for the equine industry program, consisting of money allocated to the fund together with money as may be contributed to the fund from all other sources. Money to the credit of the equine industry program fund at the end of each fiscal year shall not lapse but shall be carried forward to the succeeding fiscal year. Money from the equine industry program fund shall be administered by the University of Louisville and shall be allocated for the funding of the equine industry program.

(3) The University of Louisville shall utilize personnel and facilities of the University of Kentucky when appropriate for assistance in any cooperative undertakings the University of Louisville may wish to enter into with the University of Kentucky relating to the equine industry program.

SECTION 13. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The president of the University of Louisville shall appoint an equine industry advisory commission composed of five (5) members who are Kentucky citizens and at least three (3) of whom shall be representatives of the Kentucky equine industry. One (1) of these appointees shall be designated chairman of the commission. Their terms shall be for four (4) years or until their successors are named.

(2) The equine industry advisory commission shall make recommendations to the president for development of a comprehensive equine industry program.

(3) The equine industry advisory commission members shall not be compensated for their time but expenses may be reimbursed from the equine industry program trust and revolving fund.

(4) Staff services for the equine industry advisory commission shall be provided by the University of Louisville.

Section 14. KRS 230.990 is amended to read as follows:

(1) Any person who violates KRS 230.070 or subsection (3) of KRS 230.080 shall be fined not more than one thousand dollars ($1,000). In addition to the fine, he shall be imprisoned in the county jail for not more than one (1) year or imprisoned in the penitentiary for not more than two (2) years.

(2) Any person who violates KRS 230.090 shall, for each offense, be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both fined and imprisoned.

(3) Any person who violates KRS 230.680 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day of the meeting or racing.

(4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(5) Any person failing to appear before the commission at the time and place specified in the summons issued pursuant to KRS 230.260*(7)*[~~(6)~~], or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

The Committee Amendment No. 1 to HB 794 is as follows:

Amend printed copy of HB 794:

On page 12, line 4, after the word "*track.*", by adding the following: "*Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year.*"

HB 808, AN ACT relating to employment agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 340.053 is amended to read as follows:

(1) *Except in the case of a person or organization which provides job information and does not make job placements,* an employment agency shall not charge or accept a fee from an applicant except after such agency has been responsible for referring such job applicant to an employer and where as a result such job applicant has been employed by such employer and the job applicant and employer have mutually agreed upon both the salary or wages to be paid the job applicant and the date the employment is to commence.

(2) If a job applicant accepts employment and thereafter such employment is terminated without fault of the employe within thirty (30) calendar days of the starting date of employment, the gross fee charged *for job placement* to such employe shall not exceed twenty percent (20%) of the gross earnings of such employe for the period employed. An excess collected above the fee shall be returned immediately after the employment agency has been notified that such employment has been terminated and the employment agency has had a reasonable opportunity to ascertain the reasons therefor. *This subsection shall not apply to an employment agency which provides job information and does not make job placements.*

(3) No employment agency shall accept an advance or deposit from an applicant prior to the applicant's acceptance of a position of employment. *This subsection shall not apply to an employment agency which provides job information and does not make job placements.*

(4) An employment agency shall not charge a fee for the registering of a job applicant for employment nor for referring a job applicant to a position of employment with the same employment agency with which the job applicant has filed an application seeking the services of the employment agency.

(5) An employment agency shall not induce a job applicant to terminate his employment in order to be available to be interviewed by prospective employers.

(6) No employment agency shall require applicants to subscribe to any publication or [~~incidental~~] service *incidential to job placement* or contribute to the cost of advertising.

(7) No employment agency shall make or cause to be made or use any name, sign, or advertising device bearing a name which may be similar to, or reasonably confused with the name of a governmental agency.

(8) An employment agency may not require a job applicant to borrow money from a specific finance company in order to pay the employment agency's fee; but this shall not prevent an employment agency from advising a job applicant of the names of financial institutions from which funds may be available for this purpose.

(9) No employment agency shall place an advertisement for any position of employment without such position actually being in existence at the time of placing the advertisement, or without giving the name of the agency with the advertisement.

(10) An employment agency shall not knowingly send or cause to be sent any person to any employer where the employment agency knows, or reasonably should have known, that the prospective employment is or would be in violation of state or federal laws.

(11) When an employment agency knows that a prospective employment is for a specified limited period of time it shall notify any job applicant thereof referred to prospective employment at the time of referral.

The Committee on Agriculture and Small Business reported HR 60 with Committee Amendment attached thereto, HB 547, HB 421, and HB 748 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 60, A RESOLUTION relating to agriculture.

WHEREAS, family farm agriculture contributes income, jobs, and tax revenues to the Commonwealth; and

WHEREAS, Kentucky has the fifth largest number of family farmers of all the states in the nation; and

WHEREAS, Kentucky family farmers face serious economic hardship; and

WHEREAS, federal farm policy legislation has lowered the value of Kentucky agricultural products and farm incomes; and

WHEREAS, farm real estate values have declined dramatically, thus causing grave concern in rural Kentucky for funding of social programs and educational needs; and

WHEREAS, voluntary liquidations and farm foreclosures have accelerated, thus creating hardship for fellow farmers and rural banking systems; and

WHEREAS, low farm prices are bankrupting not only rural America but also the federal government because low prices stimulate overproduction and expensive subsidies; and

WHEREAS, Kentucky's experience with about 50 years of the tobacco program has proven that family farm agriculture can be preserved without substantial government expense;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. It is the sense of this House:

(1) That a continuing farm crisis will be damaging to the Commonwealth;

(2) That lowering farm prices will adversely impact the quality of life in rural Kentucky;

(3) That the 1985 Federal Farm Bill is not in the best interest of Kentuckians;

(4) That Congress reopen Farm Bill debate and legislate higher farm prices together with effective supply management targeted at family-scale farmers; and

(5) That Congress pass debt relief legislation that not only keeps lenders solvent but also keeps farmers on their land. Such debt relief legislation should provide federally funded incentives for lenders to write down or postpone debt service payments, so that farmers can continue their farming operations and maintain a fair standard of living.

The Committee Amendment No. 1 to HR 60 is as follows:

Amend printed copy of HR 60:

on page 2 by deleting lines 6 and 7, and on line 8 by changing (4) to (3), and on line 11 by changing (5) to (4)

HB 547, AN ACT relating to boars.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 261 IS CREATED TO READ AS FOLLOWS:

The sale of boars at stockyards, except for the intended purpose of slaughter, is prohibited unless the boar previously has been tested for brucellosis and pseudorabies prior to the sale.

HB 421, AN ACT relating to veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.210 is amended to read as follows:

(1) All licenses to practice veterinary medicine in this Commonwealth which have heretofore been issued under the laws of this Commonwealth and which have not been revoked and which are in effect on March 29, 1948, shall continue to be valid under the terms of this chapter and may be renewed from year to year, as hereinafter provided, but shall be subject to revocation as in this chapter provided. The holder of any such existing valid license shall not be required to take any other or further examination unless said license be revoked [~~or suspended~~] as provided in this chapter, but each said license shall be renewed annually on or before June 30 in each year. Every licensed veterinarian shall have his license renewed each year on or before June 30, the renewal to be as of July 1 of each year.

(2) Any person who had been a practitioner of veterinary medicine, surgery or dentistry in this Commonwealth for a period of one (1) year next prior to March 24, 1916, upon application to the board and the payment to the board of a fee of twenty-five dollars ($25.00), shall be entitled to a license, and said board shall issue to such applicant a license on the standard form used and approved by the board, signed by its chairman and secretary-treasurer and attested by its seal, which license he shall have recorded in the office of the county clerk of the county in which he resides, as provided in KRS 321.290. No license shall be issued under the provisions of this subsection after the 30th day of June, 1948, except as to applications filed with the board prior to said date.

HB 748, AN ACT relating to bovine animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.610 TO 247.685 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 247.610 to 247.685, in accordance with the federal beef promotion and research act of 1985 each Kentucky producer of a bovine animal shall receive a credit of up to fifty cents (50) on each bovine animal on which a one dollar ($1) assessment was made under the terms of the federal act. Each such fifty (50) cent credit received by the producer shall be retained by the association certified under KRS 247.610 to 247.685 and shall be used by the association for the purposes provided in KRS 247.610 to 247.685.

(2) As long as the Kentucky producer of bovine animals receives the fifty (50) cents per head credit in accordance with subsection (1) of this section, the assessment provided for in KRS 247.650 shall not be effective.

(3) In the event the one dollar ($1) assessment provided by the federal act is terminated or suspended, the assessment on each Kentucky producer of a bovine animal shall continue and shall not exceed twenty-five (25) cents for the purposes of KRS 247.610 to 247.685.

The Committee on Cities reported HB 343 with Committee Substitute attached thereto, HB 583 with Committee Substitute attached thereto, HB 765, HB 693, SB 35, and SJR 26 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 343, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.277 is amended to read as follows:

All subdivision of land shall receive commission approval;

(1) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(2) No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer, sale or contract shall be *voidable by the planning commission or the purchaser within five (5) years of the date of such instrument* [~~void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved~~]. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(3) Any street or other public ground which has been dedicated shall not be accepted by the legislative body until it has received recommendations from the planning commission.

The Committee Substitute to HB 343 is as follows:

HB 343, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.277 is amended to read as follows:

All subdivision of land shall receive commission approval;

(1) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(2) No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer, sale or contract shall be *voidable by the planning commission or the purchaser within five (5) years of the date of such instrument* [~~void and shall not be subject to be recorded~~], but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and

bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(3) Any street or other public ground which has been dedicated shall not be accepted by the legislative body until it has received recommendations from the planning commission.

HB 583, AN ACT relating to police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth the following standards of conduct are stated as the intention of the general assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) *No action of any type shall be taken against any police officer, prior to a complaint being filed as provided in this section.*

(b) Any complaint taken from any individual, *including the chief of police or other members of the department,* alleging misconduct on the part of any police officer, as defined herein, shall be taken under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized.

(c)[~~(b)~~] No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(d)[~~(c)~~] No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing; however, such police officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty in which the incident is alleged to have occurred.

(e)[~~(d)~~] If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges.

(f)[~~(e)~~] Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. Said charge shall be served on the police officer in writing.

(g)[~~(f)~~] When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges.

(h)[~~(g)~~] No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature.

(i)[~~(h)~~] When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing.

2. Copies of any sworn statements or affidavits to be considered by the hearing authority shall be furnished to the police officer no less than twenty-four (24) hours prior to the time of the hearing.

3. If the hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.

4. If the return receipt as hereinabove referred to has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice.

5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel.

6. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party.

7. Any police officer who is not given a hearing as provided by this section within sixty (60) days *or ten (10) days if the police officer has been suspended without pay,* of any charge being filed, said charge then shall be dismissed with prejudice and not be considered by any hearing authority.

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the circuit court in the county in which said local unit of government may be located to contest the action of that hearing authority, and said action shall be tried as an original action by the court.

(3) The judgment of the circuit court shall be subject to appeal to the court of appeals. The procedure as to appeal to the court of appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance or working agreement.

(4) *Any violation of the provisions of this section by the local unit of government, or its agents, shall result in all charges against the police officer being dismissed with prejudice.*

(5) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992.

The Committee Substitute to HB 583 is as follows:

HB 583, AN ACT relating to police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.520 is amended to read as follows:

(1) In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth the following standards of conduct are stated as the intention of the general assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing; however, such police officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty in which the incident is alleged to have occurred.

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges.

(e) Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. Said charge shall be served on the police officer in writing.

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges.

(g) No police officer as a condition of continued employment by the local unit of government shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature.

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing.

2. Copies of any sworn statements or affidavits to be considered by the hearing authority shall be furnished to the police officer no less than twenty-four (24) hours prior to the time of the hearing.

3. If the hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.

4. If the return receipt as hereinabove referred to has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice.

5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel.

6. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party.

7. Any police officer *suspended without pay* who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, said charge then shall be dismissed with prejudice and not be considered by any hearing authority *and such officer shall be reinstated with full back pay and benefits.*

(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the circuit court in the county in which said local unit of government may be located to contest the action of that hearing authority, and said action shall be tried as an original action by the court.

(3) The judgment of the circuit court shall be subject to appeal to the court of appeals. The procedure as to appeal to the court of appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance or working agreement.

(4) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992.

HB 765, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 82.600 is amended to read as follows:

As used in KRS 82.605 to 82.640 unless the context otherwise requires:

(1) "Local government" means a city [~~of the first four classes~~] or an urban-county government;

(2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.605 to 82.640; and shall be composed of one (1) or more persons appointed in the manner provided by ordinance; and also means any hearing officer or officers appointed by the board. Any action of such hearing officer shall be deemed to be the action of the board; and

(3) "Parking ordinance" means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the local government.

HB 693, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. In counties containing a city of the first class, of the three (3) members appointed by the county judge/executive there shall be representatives of each city of the fourth class which uses metropolitan sewer district treatment facilities for treatment of *at least seventy-five percent (75%)* [~~all~~] of the sewage generated within the city. Such appointment shall be subject to approval by the fiscal court. Not more than four (4) members of the board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid seventy-five dollars ($75.00) for each meeting of the board attended by such member, and fifty dollars ($50.00) for attendance at any meeting of a committee which has been authorized or duly appointed by the board. But in no instance shall any member of said board be paid for more than one meeting per day, nor more than eighteen hundred dollars ($1800) during any fiscal year of the board, nor for more than twenty-four (24) board meetings and twenty-eight (28) committee meetings held during any fiscal year of said board.

SB 35, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employe, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

(3) "Board" means the board of adjustments unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustments who is not an elected or appointed official or employe of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;

(a) A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted.

(8) *"Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant* [~~"Dimensional variance" means a departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship~~];

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means *the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions* [~~any regulation incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation~~];

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor, chairman of the board of trustees, or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) [~~"Regulation" means any enactment by the legislative body of a city or county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the planning commission;~~

~~(19)~~] "Several" means two (2) or more;

(19)[~~(20)~~] "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20)[~~(21)~~] "Street" means any vehicular way;

(21)[~~(22)~~] "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22)[~~(23)~~] "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section.

(23)[~~(24)~~] "Unit" means planning unit*; and*

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Section 2. KRS 100.117 is amended to read as follows:

Any city or county may establish a planning program as an independent operation if the following required procedure is unsuccessful in establishing a joint planning unit encompassing the county and cities therein.

(1) A city shall interrogate the county and every other city therein to determine whether they desire to enter into an agreement to form a joint planning unit. The interrogation shall be in writing, addressed to the various legislative bodies stating proposed reasonable terms for combination and the reasoned purpose and objectives. The political subdivisions which have been interrogated shall have sixty (60) days in which to answer in writing

and the city may assume that the answer is negative if no response is received within the sixty (60) days. If the county answers in the negative, then the city may engage in an independent planning operation. If the county responds affirmatively, then a joint planning unit shall be established, and no city located in such county may form an independent planning unit. If a city has been operating under an agreement under which its planning operations have been combined with one (1) or several counties or cities and the combination is broken, then it shall follow the procedure set forth in this subsection before it engages in an independent planning operation.

(2) A county shall interrogate every incorporated city within its boundaries and otherwise be subject to following the procedure established for an independent city operation.

(3) In a county where independent planning units have been created in accordance with this section, another interrogation shall not be permitted for a period of four (4) years from the date of the previous letter of interrogation. If another interrogation is initiated, the required procedure as defined by this section, shall be followed. If the result of such an interrogation is creation of a joint planning unit, as permitted by KRS 100.121, then all the existing independent planning units shall be dissolved, and no city located in such county may form an independent planning unit. A period of one (1) year from the date of the letter of interrogation shall be permitted for the newly formed joint planning unit to come into existence, during which time the other necessary steps required by KRS Chapter 100 must be complied with and the dissolution of the independent units shall be effective upon compliance with requirements of KRS Chapter 100, for creation of the joint planning unit, or at the end of the one (1) year period, whichever is first.

Section 3. KRS 100.127 is amended to read as follows:

(1) All agreements for joint or regional planning units shall be in writing, and shall describe the boundaries of the area involved, and shall contain all details which are necessary for the establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation. [~~Approval of the agreement shall be by regulation and~~] The agreement shall be *adopted as an ordinance* [~~executed~~] by the *legislative bodies which are* parties to the agreement *in accordance with the procedures for the adoption of an ordinance pursuant to KRS Chapters 67, 67A, 83, and 83A*, and filed in the office of the county clerk of all counties which are parties to the agreement or which contain a city which is a party to the agreement. The county clerk may charge a fee of two and one-half dollars ($2.50) for the filing of the agreement. Combination under this subsection shall be permitted notwithstanding the fact that the governmental units are also involved in area planning under KRS 147.610 to 147.705. Combined planning operations shall be jointly financed, and the agreement shall state the method of proration of financial support.

(2) Agreements for planning units shall be in existence as long as at least two (2) of the original signators are operating under the combination despite the fact that other signators have withdrawn from the unit. In addition, any enlargement of a unit may be accomplished under the existing agreement by filing a copy of the agreement in the office of the county clerk of all member counties along with a statement as to when it was admitted to the unit. The clerk may charge a fee of two and one-half dollars ($2.50) for the filing.

(3) If the planning unit, or any part thereof, has adopted regulations for historical districts under KRS 100.201 and 100.203, the planning agreement may provide for the creation of a three (3) or five (5) member board to advise the zoning administrator regarding issuance of permits in such districts, the board being guided by the standards and restrictions of the community's comprehensive plan and by the historical district regulations adopted by the planning unit.

Section 4. KRS 100.133 is amended to read as follows:

(1) Before a planning unit may engage in planning operations, a planning commission shall be appointed for the unit in conformance with an adopted [~~regulation or~~] agreement.

(2) A planning commission shall consist of at least five (5), but not more than twenty (20) members. The governor shall have the privilege of appointing a member to the commission to which the capital city belongs in addition to the number of members specified for that planning commission. Where extraterritorial jurisdiction is exercised for subdivision regulations or other regulations, the county judge/executive of each affected county may appoint a member to the planning commission of the planning unit exercising such jurisdiction in addition to the number of members specified for that planning commission. At least two-thirds (2/3) of the members of every planning commission shall be citizen members. A regional planning commission shall include

at least one (1) citizen member from each joint planning unit who is also a member of the joint planning commission. If one (1) city only joins with one (1) county, then each shall have equal representation. Whenever this chapter requires a city without its consent to belong to a joint planning unit, then KRS 100.137 shall apply.

Section 5. KRS 100.153 is amended to read as follows:

In the [~~regulation or~~] agreement under which the planning unit operates, [~~as applicable,~~] reimbursement for expenses or compensation, or both, may be authorized for citizen members of a planning commission. Reimbursement for expenses may be authorized for public officials and employes of participating cities and counties who are members of the planning commission, but such members shall receive no compensation.

Section 6. KRS 100.171 is amended to read as follows:

(1) A simple majority of the total membership of a planning commission as established by [~~regulation or~~] agreement shall constitute a quorum, except that a planning unit created pursuant to KRS 100.137 may specify in its planning agreement that five (5) members of the planning commission shall constitute a quorum. Any member of a planning commission who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question, and he shall not be counted for the purpose of a quorum. A simple majority vote of all members present where there is a properly constituted quorum shall be necessary to transact any [~~official~~] business *of the commission*, except that a vote of a simple majority of the total membership shall be necessary for the adoption or amendment [~~of the commission's bylaws, or for elements~~] of the comprehensive plan [~~or regulations~~].

(2) A planning commission may appoint one or more of its members to act as a hearing examiner or examiners to preside over a public hearing and make recommendations to the commission based upon a transcript of record of the hearing.

Section 7. KRS 100.177 is amended to read as follows:

The legislative bodies in the planning unit may appropriate out of general revenues for the expenses and accommodations necessary for the work of the commission. Any planning commission shall have the right to receive, hold, and spend funds which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky, including the United States government, for the purpose of carrying out the provisions of this chapter. All bylaws shall describe the method for administration of funds, and an annual audit shall be performed of all receipts, expenditures, and funds on hand by *the auditor of public accounts or an independent certified public* [~~official of any city or county which is a member of the unit, or by an~~] accountant. The report of every audit, including financial statements, shall be kept in the same manner prescribed in this chapter for other records.

Section 8. KRS 100.181 is amended to read as follows:

The legislative body or mayor of the city and the fiscal court or county judge/executive of the county may assign to the planning commission of the planning unit of which it is a member, *or to an area planning commission if in existence,* any powers, duties and functions relating to urban renewal, [~~or~~] public housing, *or community development.*

Section 9. KRS 100.182 is amended to read as follows:

All other provisions of this chapter to the contrary notwithstanding, no comprehensive plan, *land use or* zoning *regulation* [~~ordinance~~], subdivision regulation, public improvements program, or official map regulation shall be invalidated in its entirety for failure to strictly comply with any procedural provision of this chapter or with the requirements of KRS Chapter 424 in making any publication required to be made under this chapter, unless a court finds that the failure to strictly comply with any procedural requirement results in material prejudice to the substantive rights of an adversely affected person and that such rights cannot be adequately secured by any remedy other than invalidating the comprehensive plan, *land use or* zoning *regulation* [~~ordinance~~], subdivision regulation, public improvements program, or official map regulation in its entirety.

Section 10. KRS 100.183 is amended to read as follows:

The planning commission of each unit shall prepare a comprehensive plan, which shall serve as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. The elements of the plan may be expressed in words, graphics, or other appropriate forms. They shall be interrelated, and each element shall describe how it relates to each of the other elements [~~and to the statement of objectives, principles, policies and standards~~].

Section 11. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, [~~principles, policies, and standards,~~] which shall serve as a guide for the physical development and economic and social well-being of the planning unit.

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural and recreational land uses.

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. Such channels, routes, and terminals may include, without being limited to all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways.

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. Such facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities.

(5) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 12. KRS 100.191 is amended to read as follows:

All elements of the comprehensive plan shall be based upon but not limited to, the following research, analysis, and projections;

(1) An analysis of the general distribution and characteristics of past and present population and a forecast of the extent and character of future population as far into the future as is reasonable to foresee.

(2) An economic survey and analysis of the major existing public and private business activities, and a forecast of future economic levels, *including a forecast of anticipated necessary actions by the community to increase the quality of life of its current and future population through the encouragement of economic development* [~~or conditions~~] as far into the future as is reasonable to foresee.

(3) Research and analysis as to the nature, extent, adequacy, and the needs of the community for the existing land and building use, transportation, and community facilities in terms of their general location, character and extent.

(4) Additional background information for the elements of the comprehensive plan may include any other research analysis, and projections which, in the judgment of the planning commission, will further serve the purposes of the comprehensive plan.

Section 13. KRS 100.193 is amended to read as follows:

The planning commission of each planning unit shall prepare and adopt the statement of *goals and* objectives [~~and principles~~] to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment and adoption by the legislative bodies and fiscal courts in the planning unit. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional and other organizations, and with citizens.

Section 14. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of *goals and* objectives[~~, principles, policies, and standards of the unit~~]. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements [~~by a regulation which may be carried only by a simple majority vote of the total commission membership~~]. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical and physical advancements or changes. *At least once every five (5) years, the commission shall amend or re-adopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or re-adoption shall occur only after a public hearing before the planning commission.*

(2) The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then such proposed amendments must be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, then it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the circuit court. If the circuit court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the circuit court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review [~~The procedure for amendment shall be the same as for the original adoption. The elements shall be reviewed and amended, if necessary, at least once every five (5) years, but no comprehensive plan shall be declared invalid on the grounds that the review was not performed~~].

Section 15. KRS 100.201 is amended to read as follows:

Except as provided in subsection (2) of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact land use regulations, including zoning or other kinds of growth management regulations [~~Cities and counties which are members of a planning unit which has adopted at least the objectives and the land use plan elements may divide the territory within their area of jurisdiction into zones~~] on an interim or permanent basis to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, *land use and* zoning *regulations* may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood or other dangers. *Land use and* zoning *regulations* may also be employed to protect airports, highways, and other transportation facilities, public facilities, [~~including~~] schools, [~~and~~] public grounds, historical districts, central business districts, *prime agricultural land and other* natural resources, and other specific areas of the planning unit which need special protection by the planning unit.

Section 16. KRS 100.203 is amended to read as follows:

Cities and counties may *enact zoning regulations* [~~exercise the power to zone through zoning regulations~~] which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the

granting of [~~dimensional~~] variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts;

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning *commission* [~~unit~~], as a condition to the granting of any zoning change, may require the submission of a development plan, which *shall be limited to the provisions of the definition contained in KRS 100.111(8).* [~~,~~] Where agreed upon, *this development plan* shall be followed. As a further condition to the granting of a zoning change, the planning *commission* [~~unit~~] may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing.

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used [~~solely~~] for agricultural *purposes shall have no regulations* [~~, farming, dairying, stock raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or courts' requirements for agricultural buildings, including and limited to one mobile home used as a dwelling~~] except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways*;*[~~, and~~]

(b) [~~That~~] All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated*; and*

(c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy.

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits.

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the

application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter.

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2).

Section 17. KRS 100.207 is amended to read as follows:

Before a city or county enacts zoning regulations, as authorized by KRS 100.201, the [~~Except as provided in subsection (2) of KRS 100.137, when the planning commission has adopted the objectives and land use plan elements for the planning unit, the various legislative bodies and fiscal courts of the cities and counties which are members of the unit may pass zoning regulations. The~~] planning commission shall prepare the text and map of all zoning regulations and shall hold at least one (1) public hearing as required in KRS Chapter 424. The planning commission shall submit it along with their recommendation to the various legislative bodies and fiscal courts for adoption [~~or denial~~]. A majority of the entire legislative body or fiscal court shall be required to pass a zoning regulation which contains any changes or departures from the zoning regulation as proposed by the planning commission after the change has been referred to the planning commission for its recommendation. The procedure for adoption of the zoning regulation shall be the same as for any other regulation or order; Provided, however, That, notwithstanding publication requirements, the zoning regulation may be published by stating the title and general description of the regulations and referring to the place within the unit where a copy of the complete regulation may be examined without charge.

SECTION 18. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

When a city annexes new territory or when a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class, and the intent is to regulate land development, the process to adopt or amend a comprehensive plan, zoning ordinance, subdivision regulations, public improvements program or official map for the affected territory shall be as required by KRS Chapter 100. The planning commission shall be permitted to hold public hearings on such proposed adoption or amendments as required by KRS Chapter 100 prior to final action on the annexation, creation or incorporation. The legislative body may take action adopting existing applicable goals and objectives and existing applicable regulations without a new public hearing, but a public hearing shall be required if any change to such goals and objectives or regulations are proposed. Until such actions have been taken, prior laws shall remain in effect and prior governing authority shall control.

Section 19. KRS 100.211 is amended to read as follows:

(1) A proposal for amendment to any zoning regulation may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall then hold at least one (1) public hearing after notice as required by KRS chapter 424 and make recommendations to the various legislative bodies or fiscal courts involved, and it shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission.

(2) All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation, [~~except that, in counties containing a city of the first class, any notice by newspaper shall be published thirty (30) days prior to the public hearing,~~] and *the notice of publication* shall include the street address of the property in question, or if one is not available, *or if it is not practicable due to the number of addresses involved,* a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

Section 20. KRS 100.212 is amended to read as follows:

When in any planning unit [~~containing any portion of a county~~] except for a planning unit [~~containing any portion of a county~~] containing a city of the first class, a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, [~~by~~] local regulation or ordinance [~~to be given~~]:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height.

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the *map* amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. *In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners.*

Section 21. KRS 100.213 is amended to read as follows:

(1) Before any map amendment is granted, the planning commission or the legislative body or fiscal court must find that the map amendment is in agreement with the *adopted* [~~community's~~] comprehensive plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or the legislative body or fiscal court.

(a) That the *existing* [~~original~~] zoning classification given to the property *is* [~~was~~] inappropriate *and that the proposed zoning classification is appropriate* [~~or improper~~].

(b) That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the *adopted* [~~community's~~] comprehensive plan and which have substantially altered the basic character of such area.

(2) [~~In counties containing cities of the first class~~] The planning commission, legislative body or fiscal court may adopt provisions which prohibit for a period of two (2) years, the reconsideration of a denied map amendment or the consideration of a map amendment identical to a denied map amendment.

Section 22. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class a hearing is scheduled on a proposal by a property owner to amend any zoning map the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed thirty (30) days immediately prior to the hearing. Posting shall be as follows:

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height.

(b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.

(2) Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by first class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to an owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to an owner of every parcel of property directly across the street from said property,

and to an owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; *provided, however, that no first class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed.* It shall be the duty of the person or persons proposing the *map* amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners.

(3) If the hearing has been scheduled for a time during normal working hours, and if, within fifteen (15) days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing.

(4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Section 23. KRS Chapter 100.217 is amended to read as follows:

(1) Before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustments shall be appointed for the planning unit as stated in the [~~regulation or~~] agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment, *except as provided in KRS 100.203(5).*

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies.

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustments shall, before entering upon their duties, qualify by taking the oath of office prescribed by section 228 of the constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustments.

(8) Any member of a board of adjustments may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the

power to remove a member of the board of adjustments shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustments, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.

(9) Each board of adjustments annually shall elect a chairman, vice-chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of his term.

Section 24. KRS 100.221 is amended to read as follows:

(1) Each board of adjustments shall conduct meetings at the call of the chairman who shall give written or oral notice to all members of the board at least seven (7) days prior to the meeting, which notice shall contain the date, time and place for the meeting, and the subject or subjects which will be discussed.

(2) A simple majority of the total membership of a board of adjustments as established by [~~regulation or~~] agreement shall constitute a quorum. Any member of a board of adjustments who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

(3) All boards of adjustments shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the board. If the board has no office, such records may be kept in custody of an officer of the board and shall be available to the general public. A transcript of the minutes of a board of adjustments shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(4) A board of adjustments may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the board based upon a transcript or record of the hearing.

Section 25. KRS 100.241 is amended to read as follows:

The board shall have the power to hear and decide on applications for [~~dimensional~~] variances [~~where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulation or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone~~]. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.

Section 26. KRS 100.243 is amended to read as follows:

Before any variance is granted, the board must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the [~~dimensional~~] variance*:*[~~.~~]

(1) The *requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or* [~~specific conditions in detail which are unique to the applicant's land and do not exist on other land~~] in the same zone.

(2) The [~~manner in which the~~] strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land *or would create an unnecessary hardship on the applicant* [~~in the manner equivalent to the use permitted other landowners in the same zone~~].

(3) *Such special* [~~That the unique conditions and~~] circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation.

(4) Reasons that the variance will [~~preserve,~~] not *adversely affect* [~~harm~~] the public *health,* safety and welfare, and will not alter the essential character of the *general vicinity, and will not cause a hazard or a nuisance to the public* [~~neighborhood~~].

Section 27. KRS 100.251 is amended to read as follows:

A [~~dimensional~~] variance applies to the property for which it is granted, and not to the individual who applied for it. A variance [~~also~~] runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

Section 28. KRS 100.253 is amended to read as follows:

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

(2) The board of adjustments shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustments may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which *has existed illegally and does not conform to the provisions of the zoning regulations,* [~~is a nonconforming use~~] and has been in *continuous* existence for a period of ten (10) years, *and which has not been the subject of any adverse order or other adverse action by the administrative official during said period,* shall be deemed [~~approved as~~] a [~~valid~~] nonconforming use. *Thereafter, such use shall be governed by the provisions of subsection (2) of this section.*

(4) The provisions *of subsection (3)* of this section shall not apply to counties containing a city of the first class, a city of the second class, or urban-county government.

Section 29. KRS 100.257 is amended to read as follows:

The board of adjustments shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation. Such appeal shall be taken within *thirty (30)* [~~sixty (60)~~] days.

Section 30. KRS 100.261 is amended to read as follows:

Appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, *order, requirement, interpretation, grant, refusal,* or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action *of the official* [~~appealed from,~~] by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At *the public* [~~any~~] hearing *on the appeal held* by the board, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

Section 31. KRS 100.273 is amended to read as follows:

Any planning commission which has completed the objectives, land use plan, transportation plan, and community facilities elements of a comprehensive plan may adopt regulations for the subdivision of land within its boundaries, *except that, in the case of urban-county governments, the planning commission shall make recommendations to the legislative body of the urban-county government as to the regulations, and it shall take a majority of the entire legislative body to override the recommendation of the planning commission.*

Section 32. KRS 100.277 is amended to read as follows:

(1) All subdivision of land shall receive commission approval.[~~:~~]

(2)[~~(1)~~] No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(3)[~~(2)~~] No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(4)[~~(3)~~] Any street or other public ground which has been dedicated shall not be accepted *for maintenance* by the legislative body until it has received *final plat approval by* [~~recommendations from~~] the planning commission.

Section 33. KRS 100.281 is amended to read as follows:

All subdivision regulations shall be based on the comprehensive plan and shall contain:

(1) The procedure for the submission and approval of preliminary and final plat and the recordation of final plats. The commission may delegate to its secretary or any other officer or employe the power to approve plats in accordance with the commission's adopted requirements, but all plats, preliminary and final, shall be approved or disapproved within ninety (90) days.

(2) Specifications for the contents and the format of all subdivision plats.

(3) Requirements for the design of streets, blocks, lots, utilities, recreation areas, other facilities, hazardous areas, and areas subject to flooding. Such requirements may deal with all forms of land use including residential, commercial, industrial, and other uses.

(4) Specifications for the physical improvements of streets, utilities, and other facilities, and the extent to which they shall be installed or dedicated as conditions precedent to approval of any plat, including the provision of *good and sufficient surety* [~~subdivision performance bonds~~] to insure proper completion of physical improvements.

(5) Specifications for the extent to which land is to be used for public purposes shall be reserved as a condition precedent to approval by the commission of any subdivision plat. The planning commission may require a reservation, not to exceed two (2) years, for parks, open space, school and other public uses.

Section 34. KRS 100.311 is amended to read as follows:

Any city or county may prepare and adopt a program and budget for capital improvements which the planning commission may recommend. The long term capital improvements program shall list, in priority order of need, all of the public facility improvements proposed on the comprehensive [~~community development~~] plans for the entire time period covered thereby. The short term capital improvements budget shall include those capital improvements which are programmed for the first five (5) or six (6) years, shall show estimates of cost, where applicable, for land acquisition, planning and design, construction and equipment, and all other necessary capital outlays, and shall relate such capital improvements costs to over-all city or county governmental costs by projecting revenues and expenditures for the five (5) or six (6) year period on a year by year basis. The resulting short term capital improvements budget will assure the ability of the city or county to meet its capital needs without impairment to its operating needs. The first year of the short term capital improvements budget shall automatically become part of that year's current operating budget, at which time the short term capital improvements budget shall be revised and another year added. For purpose of year to year budget revision and updating, the long term capital improvements program may be reviewed and revised at any time in keeping with the review and revision of the comprehensive [~~community development~~]

plans. Nothing herein shall prevent any city or county from preparing and adopting a public facility improvement program in the absence of a proposed public improvements map regulation.

Section 35. KRS 100.327 is amended to read as follows:

Only after *the statement of goals and* objectives and land use plan elements *of the comprehensive plan*, at least, have been adopted for the unit, KRS 100.215 and 100.324 shall govern.

Section 36. KRS 100.328 is amended to read as follows:

(1) The *planning* commission shall have the authority to adopt all *bylaws and procedures* [~~rules and regulations~~] necessary to carry out *the* [~~its~~] functions [~~under the provisions~~] of this chapter. [~~Every rule and regulation promulgated by the commission shall be submitted to each fiscal court and legislative body concerned for approval or rejection.~~]

(2) If the planning commission is conducting or, in good faith is preparing to conduct, studies which are required for a comprehensive plan, the commission and the legislative bodies may prepare and adopt interim regulations before the otherwise required plan elements are completed. The contents of, and procedure for adoption and amendment of, the interim regulations shall be the same as for the regular regulations.

Section 37. KRS 100.3291 is amended to read as follows:

Whenever any other restrictions or covenants impose a higher standard than *permitted* [~~that indicated~~] by [~~any regulation of~~] this chapter, then such other restriction or covenant shall govern.

SECTION 38. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) Upon application of all persons owning land comprising a subdivision, the planning commission may revoke the approval of a subdivision plat, including all dedications of public facilities, easements and rights of way.

(2) Before any plat shall be revoked, all owners shall, as part of their application for revocation, state under oath that no person has purchased a lot shown on the plat.

(3) A revocation shall become effective only upon:

(a) A notation on the margin of the recorded plat stating that such plat has been revoked and the date of such vote of revocation; such notation shall be signed by the chairman, secretary, or other duly authorized officer of the commission; and

(b) A written approval of such revocation filed with the commission, duly signed by each entity to which an offer of dedication of any public or private facility, easement or right of way was made on the plat.

(4) The remedy provided in this section is in addition to all other remedies provided by law and shall not impair the right of the commission or any interested party from filing an action in circuit court for such relief as may be appropriate.

Section 39. KRS 100.347 is amended to read as follows:

[~~Any appeal from commission action may be taken in the following manner:~~]

(1) Any person or entity claiming to be injured or aggrieved by any final action of the [~~planning commission or~~] board of adjustments *shall* [~~may~~] appeal from the action to the circuit court of the county in which the *property, which is the subject of the action of the board of adjustments,* [~~land~~] lies. Such appeal shall be taken within thirty (30) days after the final action of the [~~commission or~~] board. *All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustments shall be a party in any such appeal filed in the circuit court.* [~~Final action shall not include commission's recommendations made to other governmental bodies.~~]

(2) Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject

of the commission's action, lies. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Provided, however, any appeal of a planning commission action granting or denying a variance or conditional use permit authorized by KRS 100.203(5) shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court. [~~All appeals shall be taken in the appropriate circuit court within thirty (30) days after the action or decision of the planning commission or board of adjustments and all decisions which have not been appealed within thirty (30) days shall become final. After the appeal is taken the procedure shall be governed by the Rules of Civil Procedure. When an appeal has been filed, the clerk of the circuit court shall issue a summons to all parties, including the planning commission in all cases, and shall cause it to be delivered for service as in any other law action.~~]

(3) Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city, county or urban-county government, relating to a map amendment shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.

(4) Persons speaking at the public hearing in favor of the decision being appealed are not required to be made parties to such appeal.

SECTION 40. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Whenever a public hearing is required by this chapter, the presiding body may prescribe the procedures to be followed. No information offered at the hearing shall be excluded for failure to follow judicial rules of evidence. The presiding body may adopt its own rules to determine the kind of information that will be received. Members of the presiding body may visit a site pertinent to a hearing prior to the final decision of the presiding body. All information allowed to be received shall constitute evidence upon which action may be based.

Section 41. KRS 100.991 is amended to read as follows:

(1) Any person or entity who violates any of the provisions of KRS 100.201 to 100.347 or any of the regulations adopted pursuant *thereto* [~~hereunder~~] for which no other penalty is provided, shall upon conviction be fined not less than ten *dollars ($10)* [~~(10)~~] but *not* [~~no~~] more than five hundred dollars ($500) for each conviction. Each day of violation shall constitute a separate offense.

(2) Any person, owner or agent who violates this chapter shall, upon conviction, be fined not less than one hundred *dollars ($100)* [~~(100)~~] nor more than five hundred dollars ($500) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

(3) A commission may appoint enforcement officers who shall have authority to issue citations for violations of this chapter which the officer has observed, but shall not have powers of peace officers to make arrests or carry deadly weapons. The defendant shall appear within a designated time pursuant to the citation.

(4) The procedure for citations issued by an enforcement officer shall be as provided in KRS 431.015.

Section 42. KRS 81A.050 is amended to read as follows:

Any city of the first class which proposes to annex territory pursuant to KRS 81A.010 shall, prior to the enactment of the first ordinance, hold public hearings as provided in KRS 81A.060 and prepare a report setting forth the plans for the extension of services to the area proposed to be annexed. The report shall include:

(1) A map of the city and adjacent territory to show the following information:

(a) The present and proposed boundaries of the city;

(b) The present streets, major trunk water mains, sewer interceptors and outfalls as well as other utility lines;

(c) The present areas receiving, or able to receive, major city services, and the proposed extension of such services to other areas; [~~and~~]

(d) The prevailing general land use patterns existing in the area to be annexed*; and*

(e) If zoning has been adopted by the annexing city, a map showing the zoning that will be effective for the annexed area.

(2) A statement showing that the area to be annexed meets the requirements of KRS 81A.010.

(3) A statement setting forth the plans of the city for extending to the area to be annexed each major city service owned by the city or subsidized through city tax revenues and performed within the city at the time of annexation. Such statement shall:

(a) Provide for extending police and fire protection, garbage collection, and street maintenance services to the area to be annexed on the date of annexation, on substantially the same basis and in the same manner as such services are provided within the boundaries of the city prior to annexation;

(b) Provide for extension, into the area to be annexed, of streets and of major trunk water mains, sewer outfall lines, and lines for such utility services as the city provides to existing city residents and legally may provide in the annexed area, so that when such streets and utility lines are constructed, property owners in the area to be annexed will be able to secure the services, according to the policies in effect in the city for extending the services to individual lots or subdivisions; and shall name the government proposed to be responsible under the plans for any streets or form a boundary of the area to be annexed;

(c) Set forth a proposed timetable for the extension of, and if necessary, the construction for each major city service;

(d) Set forth a projected estimation of tax rates pursuant to KRS 81A.070 to be levied by the city upon the area to be annexed and affected residents of that area for each year until such time that all major city services have been provided; and

(e) Set forth the method under which the city plans to finance extension of services into the area to be annexed.

Section 43. KRS 81A.420 is amended to read as follows:

(1) Whenever a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. Such ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory. *If zoning has been adopted by the annexing city, then following a public hearing and recommendations by the planning commission for the city, the ordinance shall include a map showing the zoning that will be effective for the annexed area.*

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days following July 15, 1980, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk.

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ....?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex.

(b) If less than seventy-five percent (75%) of the qualified voters in the area to be annexed oppose annexation, the unincorporated territory shall become a part of the city.

(c) If seventy-five percent (75%) or more of the qualified voters in the area to be annexed oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which less than seventy-five percent (75%) of the qualified voters in the area opposed annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

SECTION 44. A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS FOLLOWS:

Every court of this state shall take judicial notice of any comprehensive plan and any regulation adopted pursuant to KRS Chapter 100.

Section 45. The following KRS sections are repealed:

100.216 Noncommercial dog kennel not prohibited in area zoned for residential use.

100.367 Time allotted for transfer to this new legislation.

SJR 26, A JOINT RESOLUTION directing the study of state laws respecting planning and land use management regulation.

WHEREAS, planning and land use regulation activities and functions greatly affect the health, safety and public welfare of the citizens of the Commonwealth; and

WHEREAS, continued economic development and sustained growth of communities throughout the Commonwealth are best promoted through the provision of sound and equitable planning and land use management laws; and

WHEREAS, it is deemed appropriate that the laws of the Commonwealth promote flexibility and innovation by units of local government in the application and practice of land development and growth management; and

WHEREAS, during the 1984-85 interim, a review of local planning and land use regulation practices prompted diverse citizen interest and numerous recommendations for the continued study of laws related to planning and land use management regulation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission is directed to establish and appoint a special committee to continue the study of state statutes applicable to or affecting the provision, practice or conduct of local planning and land use management regulation functions and services. Special consideration shall be given to proposing revision of any state law deemed to be inflexible or inhibitive to the sustained growth and development of the Commonwealth and to the maintenance of a quality of life afforded by the diverse communities of the Commonwealth.

Section 2. That the special committee shall be composed of fifteen members with six members to be appointed from the Senate and nine members to be appointed from the House of Representatives. Special consideration shall be given to appointing members comprising the Senate Committee on Cities, Senate Committee on Counties and Special Districts, House Committee on Cities and House Committee on Counties and Special Districts. The Commission shall appoint a chairperson from those members appointed.

Section 3. That the Department for Local Government, the Natural Resources and Environmental Protection Cabinet, and the Commerce Cabinet are directed to cooperate with the special committee and the staff of the Legislative Research Commission in the conduct of this study.

Section 4. That the state universities, local governments and planning agencies throughout the Commonwealth are requested to cooperate with and offer any assistance possible to the special committee and the staff of the Legislative Research Commission in the conduct of this effort.

Section 5. That the Special Committee shall report its findings and recommendations, including any proposed revisions to the Kentucky Revised Statutes, to the Legislative Research Commission and the regular session of the 1988 General Assembly by November 30, 1987.

Section 6. Legislative Research Commission staff services to be utilized in the conduct of this effort are estimated to cost $25,000, and shall be provided from the regular Commission budget, subject to the limitations and other research responsibilities of the Commission.

Calendar

HB 245, HB 507, HB 655, HB 736, SB 182, HB 183, HB 753, HB 760, HB 769, SB 76, SB 86, HB 24, HB 105, HB 549, HB 570, HB 677, SB 8, HB 510, HB 667, HB 226, HB 680, SB 240, HB 203, HB 563, HB 685, HB 686, HB 687, HB 706, HB 722, and SB 120 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Curd moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Curd moved the adoption of the following Legislative Citation No. 45:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the Calloway County Speech Team, winner of the Kentucky High School Speech Tournament. We applaud you for winning your Regional Speech Tournament, and for placing fifth out of 119 schools in the National Speech Contest. We salute you for the representation of dignity and pride you have bestowed on your school, community and the Commonwealth of Kentucky. Members of the Speech Team are: Tim Wetherford, Jodi Price, Mark O'Pool, John Bray, Kelli Burkeen, Tim Black, Jody Lassiter, Nicole Bazzell, Jeanne Carroll, Susanne Coleman, Vena Crum, Tonia Erkman, Natalie McDougal, Wendy Parker, Denise Wolke, Matt Yuill, Jason Woods, Vickie Grady, Kim Goetz, Lori Jones, Laura Jones, Debbie Mott, Gina Harris, Scottie Rice, Patrick Orr, Amanda Smart, Kellye Geruin, Heidi Heiss, Angie Herndon, Joann Slaydon. (Sponsored by Representative Curd)

Agreed.

SB 207 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that SB 207 be passed.

On the roll call the vote was: Yeas 75, Nays 21. (See March 5, 1986, roll call on SB 207—Appendix A.)

SB 207 was passed and the title agreed to.

Representative Priddy moved that the vote by which SB 207 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 225, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved the adoption of the Committee Substitute to HB 225. AGreed.

Representative Guenthner moved that HB 225, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 46, Nays 28. (See March 5, 1986, roll call on HB 225—Appendix A.)

HB 225, by way of Committee Substitute, was passed and the title agreed to.

Representative Guenthner moved that the vote by which HB 225, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 427, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Substitute to HB 427. Agreed.

Representative Meyer moved that HB 427, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 77, Nays 16. (See March 5, 1986, roll call on HB 427—Appendix A.)

HB 427, by way of Committee Substitute, was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 427, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 537, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Amendment No. 1 to HB 537. Agreed.

Representative Meyer moved that HB 537, as amended, be passed.

On the roll call the vote was: Yeas 47, Nays 44. (See March 5, 1986, roll call on HB 537—Appendix A.)

HB 537, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which HB 537, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker ruled that HB 537, as amended, was defeated due to the emergency clause contained therein.

HB 561, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Floor Amendment No. 1 to HB 561. Agreed.

Representative Cyrus moved that HB 561, as amended, be passed.

On the roll call the vote was: Yeas, 95, Nays 0. (See March 5, 1986, roll call on HB 561—Appendix A.)

HB 561, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 561, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 627, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Floor Amendment No. 1 to HB 627. Agreed.

Representative Arnold moved that HB 627, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 5, 1986, roll call on HB 627—Appendix A.)

HB 627, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which HB 627, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 46, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that HB 46 be passed.

Representative R. Jones moved that HB 46 be laid on the Clerk's desk.

On the roll call the vote was yeas 10—Deskins, Donnermeyer, R. Jones, Little, Lyne, McBee, Pritchett, Richards, Todd, Turner. Nays 58—Allen, Barrows, Bennett, Blandford, Blevins, Brinkley, Burch, Caldwell, L. Clark, Crupper, Curd, Cyrus, Dawahare, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, J. Harper, K. Harper, Heleringer, Holbrook, Holloway, Jensen, Johnson, Keith, Lefevers, Lile, Mack, Maggard, Mann, McElroy, McNutt, Napier, Nett, Noe, Noland, Overstreet, Pearman, Preston, Rapier, Rattliff, Reinhardt, B. Richardson, Rose, Scorsone, Siler, Stewart, Stone, Strong, Stumbo, Thomas, White, Williams, Yates.

The motion that HB 46 be laid on the Clerk's desk was rejected.

On the roll call the vote was: Yeas 89, Nays 4. (See March 5, 1986, roll call on HB 46—Appendix A.)

HB 46 was passed and the title agreed to.

Representative Guenthner moved that the vote by which HB 46 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HCR 40 and HCR 51 had been examined and found correctly enrolled. Said resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:47 p.m.)

HCR 40 and HCR 51 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 499 with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment No. 1 to HB 499. Agreed.

Representative Gray moved that HB 499, as amended, be passed.

On the roll call the vote was: Yeas 39, Nays 51. (See March 5, 1986, roll call on HB 499—appendix A.)

HB 499, as amended, was defeated.

HB 214 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that HB 214 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 5, 1986, roll call on HB 214—Appendix A.)

HB 214 was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 214 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 219, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to HB 219. Agreed.

Representative LeMaster moved that HB 219, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 5, 1986, roll call on HB 219—Appendix A.)

HB 219, by way of Committee Substitute, was passed.

Representative LeMaster moved the adoption of the Committee Title Amendment to HB 219. Agreed, and the title was agreed to.

Representative LeMaster moved that the vote by which HB 219, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 221 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that HB 221 be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 5, 1986, roll call on HB 221—Appendix A.)

HB 221 was passed and the title agreed to.

Representative McBee moved that the vote by which HB 221 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 409, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Amendment No. 1 to HB 409. Agreed.

Representative Barrows moved that HB 409, as amended, be passed.

Representative Barrows moved that HB 409, as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 21—Barrows, Bendl, Blevins, Brinkley, F. Brown, Clarke, Deskins, Hancock, Hines, R. Jones, T. Jones, Lear, LeMaster, Lile, Meyer, Moberly, Nett, Noe, Scorsone, Thomas, Yates. Nays 70—Allen, Arnold, Bennett, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Head, Heleringer, Holbrook, Holloway, Jensen, Johnson, Keith, Layman, Lefevers, Little, Lyne, Mack, Maggard, McBee, McElroy, McNutt, Morris, Napier, Noland, Overstreet, Pearman, Preston, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Rose, Seum, Siler, Smith, Stewart, Stone, Strong, Stumbo, Todd, Turner, White, Williams, Worthington.

The motion that HB 409, as amended, be laid on the Clerk's desk was rejected.

Representative Burch moved that HB 409, as amended, be laid on the table.

On the roll call the vote was yeas 38—Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, F. Brown, Burch, Burnette, Clapp, Cline, Cowan, Cyrus, Donnermeyer, Gray, Gregory, Jensen, R. Jones, T. Jones, Kerr, Layman, Lear, Lile, McBee, McNutt, Meyer, Moberly, Pearman, Priddy, Rapier, B. Richardson, Scorsone, Seum, Smith, Stone, Thomas, Worthington, Yates. Nays 49—Allen, Barrows, M. Brown, Caldwell, L. Clark, Clarke, Crupper, Curd, Dawahare, Deskins, Ellington, Farrow, Ford, Freibert, Gedling, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Lefevers, Little, Long, Lyne, Mack, Maggard, McElroy, Nett, Noe, O'Brien, Overstreet, Preston, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Rose, Siler, Stewart, Strong, Stumbo, Turner, Williams.

The motion that HB 409, as amended, be laid on the table was rejected.

On the roll call the vote was: Yeas 14, Nays 83. (See March 5, 1986, roll call on HB 409—Appendix A.)

HB 409, as amended, was defeated.

Representative Barrows moved that the vote by which HB 409, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 410 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that HB 410 be passed.

On the roll call the vote was: Yeas 45, Nays 47. (See March 5, 1986, roll call on HB 410—Appendix A.)

HB 410 was defeated.

HB 482 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that HB 482 be passed.

On the roll call the vote was: Yeas 80, Nays 13. (See March 5, 1986, roll call on HB 482—Appendix A.)

HB 482 was passed and the title agreed to.

Representative Barrows moved that the vote by which HB 482 was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 75 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of HCR 75.

On the roll call the vote was: Yeas 96, Nays 2. (See March 5, 1986, roll call on HCR 75—Appendix A.)

HCR 75 was adopted and the title agreed to.

Representative Barrows moved that the vote by which HCR 75 was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 517 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved that HB 517 be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 5, 1986, roll call on HB 517—Appendix A.)

HB 517 was passed and the title agreed to.

Representative M. Brown moved that the vote by which HB 517 was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 81, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Floor Amendment No. 1 to HJR 18. Agreed.

Representative Blevins moved that HJR 81, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 5, 1986, roll call on HJR 81—Appendix A.)

HJR 81, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which HJR 81, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 207 has been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Governor. (Time 3:26 p.m.)

Orders of the Day (continued)

HB 626, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Floor Amendment No. 1 to HB 626. Agreed.

Representative Hancock moved that HB 626, as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 5, 1986, roll call on HB 626—Appendix A.)

HB 626, as amended, was passed.

Representative Hancock moved the adoption of the Floor Title Amendment to HB 626. Agreed, and the title was agreed to.

Representative Hancock moved that the vote by which HB 626, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 672, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Floor Amendment No. 1 to HB 672. Agreed.

Representative Farrow moved the adoption of the Floor Amendment No. 2 to HB 672. Agreed.

Representative Farrow moved that HB 672, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 5, 1986, roll call on HB 672—Appendix A.)

HB 672, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which HB 672, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 682 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that HB 682 be passed.

On the roll call the vote was: Yeas 76, Nays 11. (See March 5, 1986, roll call on HB 682—Appendix A.)

HB 682 was passed and the title agreed to.

Representative Little moved that the vote by which HB 682 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 50 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that SB 50 be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 5, 1986, roll call on SB 50—Appendix A.)

SB 50 was passed and the title agreed to.

Representative Burnette moved that the vote by which SB 50 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 52 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 52 be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 5, 1986, roll call on SB 52—Appendix A.)

SB 52 was passed and the title agreed to.

HB 339, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment No. 1 to HB 339. Agreed.

Representative Bennett moved that HB 339, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 5, 1986, roll call on HB 339—Appendix A.)

HB 339, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 339, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 738, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to HB 738. Agreed.

Representative P. Clark moved that HB 738, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 5, 1986, roll call on HB 738—Appendix A.)

HB 738, by way of Committee Substitute, was passed.

Representative P. Clark moved the adoption of the Floor Title Amendment to HB 738. Agreed, and the title was agreed to.

Representative P. Clark moved that the vote by which HB 738, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 208 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that SB 208 be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 5, 1986, roll call on SB 208—Appendix A.)

SB 208 was passed and the title agreed to.

Representative Morris moved that the vote by which SB 208 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 418, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 418 is as follows:

Amend printed copy of HB 418:

Page 2, line 6, after the word "*request*" by inserting the words "*of the owner or user of the water supply*"

Representative Blevins moved that the House concur in the Senate Amendment No. 1 to HB 418. Agreed.

Representative Blevins moved that HB 418, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 7. (See March 5, 1986, roll call on HB 418—Appendix A.)

HB 418, as amended by the Senate, was passed and the title agreed to.

Representative Blevins that the vote by which HB 418, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that HB 342 be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that HB 790 be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Stumbo moved that HB 771 be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 922, by Representatives Williams, Burch, P. Richardson, Burnette, Pritchett, Blevins and Noe: AN ACT relating to state supplementation payments.

HB 923, by Representative Deskins: AN ACT relating to disasters and emergencies and establishing the Kentucky Disaster and Emergency Assistance Authority and making an appropriation therefor.

HB 924, by Representative Barrows: AN ACT relating to textbooks.

HB 925, by Representative Burnette: AN ACT relating to long-term care facilities.

HB 926, by Representative Donnermeyer: AN ACT relating to dogs.

HB 927, by Representative Rapier: AN ACT relating to district courts and providing for drug and alcohol treatment and diversion programs in such courts.

HB 928, by Representative Heleringer: AN ACT relating to recreational vehicles.

HB 929, by Representative Reinhardt: AN ACT relating to retirement credit for military service.

HB 930, by Representatives Farrow and Gedling: AN ACT making an appropriation to the brucellosis eradication and control program.

HB 931, by Representative Kerr: AN ACT relating to sexual offenses.

HB 932, by Representative Kerr: AN ACT relating to wills.

HB 933, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 934, by Representatives B. Richardson and Rattliff: AN ACT relating to statutory liens.

HB 935, by Representatives Gregory, B. Richardson, Cline, Siler and Kerr: AN ACT relating to volunteer fire departments and financing thereof.

HB 936, by Representative Riner: AN ACT relating to anabolic steroids.

HB 937, by Representative Arnold: AN ACT relating to traffic regulations.

HB 938, by Representative Donnermeyer: AN ACT relating to the sales and use tax.

HB 939, by Representative Lefevers: AN ACT relating to handicapped parking.

HB 940, by Representative Priddy: AN ACT relating to educational television.

HB 941, by Representative Clarke: AN ACT relating to the auditor of public accounts.

HJR 126, by Representatives Blevins, Stumbo, Worthington, Maggard, F. Brown, Cline, Preston, Cyrus and T. Jones: A JOINT RESOLUTION directing Morehead State University to develop through the Appalachian Development Center, in cooperation with the Cabinet for Natural Resources and Environmental Protection, the Commerce Cabinet, the Energy Cabinet, and the industry itself, a comprehensive plan to expand the state's forest products industry.

HR 127, by Representative Clapp: A RESOLUTION honoring Jamie Brazzell of Wingo, Kentucky, the 1986 Easter Seal Poster Child.

HR 128, by Representative Richards: A RESOLUTION naming Jim Wayne Miller a poet laureate of Kentucky.

HR 129, by Representatives Mann and Donnermeyer: A RESOLUTION urging presidential action.

HR 130, by Representative Reinhardt: A RESOLUTION urging the Congress of the United States to pass the Volkmer-McClure Firearms Owner Protection Act.

HCR 131, by Representatives Blandford, Rapier, Donnermeyer, Stumbo, Worthington and Hancock: A CONCURRENT RESOLUTION directing a study of early retirement.

HCR 132, by Representatives Freibert and Mack: A CONCURRENT RESOLUTION directing the Legislative Research Commission to appoint a special subcommittee of the Interim Joint Committee on Education to study the Kentucky Essential Skills Testing Program and the Remediation Program and the effect of the later program on the need for additional classrooms.

HCR 133, by Representative Cowan: A CONCURRENT RESOLUTION to create a task force to study prison population and prison options.

HR 134, by Representatives Farrow, Burnette, Crupper, Seum, Reinhardt and Arnold: A RESOLUTION recommending increased state funding for the Kentucky State University Cooperative Extension Program.

HCR 135, by Representative Freibert: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the employment, economic, and fiscal effects created by firms receiving industrial revenue bonds.

HCR 136, by Representatives Priddy, Yates, Riner, Seum, Cowan, Burch, Bennett, L. Clark, O'Brien, Bendl, Handy, Hines, Guenthner, Holloway, Lile, Bronger and Heleringer: A CONCURRENT RESOLUTION directing a study of the desirability and feasibility of providing state funding or other support to community educational television stations.

HJR 137, by Representative Richards: A JOINT RESOLUTION directing the establishment of a "Kentucky Pride" program.

HR 138, by Representatives Turner and Noe: A RESOLUTION in memory of Lonnie M. Davisworth, former state representative.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: HB 852, HB 761, HB 832.

Banking and Insurance: SB 249.

State Government: SB 255, SB 119.

Appropriations and Revenue: HB 569, HB 848.

Energy: SB 260.

Transportation: HB 735, HB 636, HB 786.

Report of Committees

The Committee on Counties and Special Districts reported HB 269 with Committee Substitute attached thereto, HB 617 with Committee Amendment attached thereto, HB 630, HB 657, HB 670 with Committee Amendment attached thereto, HB 716 with Committee Amendment attached thereto, HB 742, HB 777, and SB 233 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 269, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.182 is amended to read as follows:

Except as otherwise provided by state law, the sole method of creating a taxing district shall be in accordance with the following:

(1) Persons desiring to form a taxing district shall present a petition to the fiscal court clerk and to each member of the fiscal court, meeting the criteria of KRS 65.184, and signed by a number of registered voters equal to or greater than twenty-five percent (25%) of an average of the voters living in the proposed taxing district and voting in the last four (4) general elections. At time of its submission to fiscal court each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

(a) The statutory authority under which the district is created and under which the taxing district will operate;

(b) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

(c) A description of the service area including but not limited to the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

(d) A three (3) year projection of cost versus revenue;

(e) Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

(f) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice of the time and place of the public hearing and an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the date of the initial hearing and shall render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve or disapprove the formation of the taxing district to provide service as described in the plan of service, and to exercise the powers granted by the specific statutes that apply to the taxing district being formed.

(7) The creation of a taxing district shall be of legal effect only upon the adoption of an ordinance, in accordance with the provisions of KRS 67.075 and 67.077, creating such taxing district and compliance with the requirements of KRS 65.005, *except that in counties containing a city of the first class a taxing district shall not be created unless the ordinance is approved at the next general election by a majority of the voters living within the boundaries of the proposed district. The question put before the voters shall provide for either approval or disapproval of the ordinance and shall state the name and purpose of the taxing district and the exact amount of the tax on each one hundred dollars ($100) worth of property assessed for local taxation in the district.*

(8) A certified copy of the ordinance creating the taxing district shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the taxing district.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

Section 2. KRS 65.186 is amended to read as follows:

(1) Any city containing all or any portion of the service area or any state agency with jurisdiction over the taxing district or any citizen living in the proposed area of the taxing district may, within thirty (30) days of the decision of the fiscal court, appeal the decision of the fiscal court on the formation of a district to the circuit court, *but there shall be no appeal in a county containing a city of the first class.*

(2) The circuit court may affirm the action of the fiscal court, remand the matter to the fiscal court for additional findings or may reverse the action of the fiscal court and order approval or disapproval of the district. The circuit court may reverse the action of the fiscal court only if such decision is found to be arbitrary or capricious.

(3) No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct affecting the decision of the fiscal court.

(4) Where appeals are brought from two (2) or more fiscal courts, the actions shall be merged and venue shall lie in the circuit court of the county where the greatest number of the taxing district's residents are located.

Section 3. KRS 65.065 is amended to read as follows:

(1) The governing body of each district shall annually prepare a budget, and, as appropriate, shall classify budget units in the same fashion as county budgets are classified pursuant to KRS 68.240(2) through (5). The state local finance officer shall prepare standard budget forms for district use, and shall furnish them to county clerks for distribution to district officers. *The budget of a district governed by the provisions of KRS 173.450 to 173.650 or KRS 173.710 to 173.800 shall be approved by the fiscal court.*

(2) The governing body of each district which for the year in question receives from all sources or expends for all purposes less than fifty thousand dollars ($50,000) shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection (5) of this section.

(3) The governing body of each district which for the year in question receives from all sources or expends for all purposes fifty thousand dollars ($50,000) or more but less than five hundred thousand dollars ($500,000) shall annually prepare a financial statement and shall employ an independent certified public accountant or contract with the auditor of public accounts to perform a review of the financial statement, except that once every four (4) years, the district's governing body shall provide for the performance of an audit as provided in subsection (5) of this section.

(4) The governing body of each district which for the year in question receives from all sources or expends for all purposes five hundred thousand dollars ($500,000) or more shall provide for the performance of an annual audit as provided in subsection (5) of this section.

(5) To provide for the performance of an audit, the governing body of a district shallemploy an independent certified public accountant, or contract with the auditor of public accounts to perform an audit of the funds in the district budget. The audit shall conform to standard audit programs for governmental accounting which are approved by the auditor of public accounts, or to other generally accepted accounting principles as set forth by the Kentucky board of accountancy. A unit of government furnishing funds directly to a district may require additional audits at its own expense. If a district is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit such audits in lieu of the requirements of this section, provided that such audits meet the requirements of this subsection.

(6) The provisions of subsections (2) and (3) of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. Such districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection (5) of this section.

(7) Any resident of the district may bring an action in the circuit court to enforce the provisions of this section. The circuit court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with such provisions. The circuit court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 4. KRS 173.610 is amended to read as follows:

(1) The special ad valorem tax rate for the maintenance and operation of a public library district created pursuant to *KRS 65.182, or pursuant to* KRS 173.470 before the July 13, 1984 may be increased or decreased by submission to the voters of the district at a general election and approved by a majority of the votes cast on the issue. The board or any one hundred (100) qualified voters residing within the district may file a duly certified copy of a resolution or petition with the clerk of each county within the district at least forty-five (45) days prior to the election and the clerk shall thereupon cause the question to be prepared to be presented to the voters in substantially the following form: "Are you in favor of increasing (or decreasing) from (insert amount) cents to (insert amount) cents on each one hundred dollars ($100) of the assessed valuation of all property in the (insert name of public library district) public library district the maximum tax which the district can impose for the maintenance and operation of (insert name of district) public library district?"

(2) Any increase provided for in subsection (1) or (3) of this section shall not *increase the tax to more than* [~~exceed~~] twenty (20) cents on each one hundred dollars ($100) of the assessed valuation of all property in the district.

[~~(3) The special ad valorem tax rate for the maintenance and operation of a public library district created pursuant to KRS 173.470 before July 13, 1984 may be increased or decreased by the procedure in KRS 173.790.~~]

Section 5. KRS 173.480 is amended to read as follows:

Upon the creation of a district, the fiscal court of each county in the district shall at once notify the department for libraries and archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.470. *The county judge/executive, with the approval of the fiscal court, shall recommend to the department for libraries and archives the names of suitable persons from among the signers of the petition to be appointed to the board. The county judge/executive shall recommend twice as many persons as the county is entitled to have members appointed. The department for libraries and archives shall immediately select board members from those recommended.* [~~The department for libraries and archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The department for libraries and archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall immediately, with the approval of the fiscal court, make his selection from those recommended.~~] Where the district consists of one (1) county, [~~the county judge/executive shall appoint~~] five (5) persons from that county *shall be appointed* as members. The department for libraries and archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, *the county judge/executive of the new county, with the approval of the fiscal court shall, from among the signers of the petition, recommend to the department for libraries and archives twice as many persons for appointment to the board as the county is entitled to have appointed, and the department for libraries and archives shall select the members for the county from the list* [~~the department for libraries and archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for his county from this list~~]. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.490.

Section 6. KRS 173.490 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended by the *county judge/executive, with the approval of the fiscal court* [~~board~~]. The *county judge/executive, with the approval of the fiscal court* [~~board~~] shall recommend two (2) persons committed to the provision of library services to the department for libraries and archives, for each vacancy. [~~The names shall be forwarded to the department for libraries and archives and the state librarian and commissioner shall recommend those names to the county judge/executive.~~] The *state librarian and commissioner* [~~county judge/executive~~] shall immediately[~~, with the approval of the fiscal court,~~] make his selection from those recommended. Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves, effective July 1, 1974, exclusive of present terms begun prior to that date. The members shall hold office until their respective successors are appointed and qualified. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the *state librarian and commissioner* [~~county judge/executive~~], [~~with the approval of the fiscal court,~~] by appointment on recommendation of the *county judge/executive, with the approval of the fiscal court,* [~~state librarian and commissioner~~] of two (2) names of persons committed to the provision of library services and living in the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

Section 7. KRS 173.725 is amended to read as follows:

(1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify the department for library and archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.720. *The county judge/executive, with the approval of the fiscal court, shall recommend to the department for libraries and archives the names of suitable persons from*

among signers of the petition to be appointed to the board. The county judge/executive shall recommend twice as many persons as the county is entitled to have members appointed. The department for libraries and archives shall immediately select board members from those recommended. [~~The department for libraries and archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The department for libraries and archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall, with the approval of the fiscal court, immediately make his selection from those recommended.~~] Where the district consists of one (1) county, [~~the county judge/executive shall appoint~~] five (5) persons from that county *shall be appointed* as members. The department for libraries and archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the *county judge/executive of the new county, with the approval of the fiscal court shall, from among the signers of the petition, recommend to the department for libraries and archives twice as many persons for appointment to the board as the county is entitled to have appointed, and the department for libraries and archives shall select the members for the county from this list* [~~department for libraries and archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for his county from this list~~]. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.730.

(2) In making recommendations and appointments under subsection (1) of this section and KRS 173.730, the department for libraries and archives and the county judge/executive shall attempt to assure, to the extent permitted by the county's entitlement to board members, that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county.

Section 8. KRS 173.730 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended by the *county judge/executive, with the approval of the fiscal court* [~~board~~]. The *county judge/executive, with the approval of the fiscal court* [~~board~~] shall recommend two (2) persons committed to the provision of library services to the department for libraries and archives, for each vacancy. [~~The state librarian and commissioner shall recommend those names to the county judge/executive.~~] The *state librarian and commissioner* [~~county judge/executive~~] shall immediately[~~, with the approval of the fiscal court,~~] make his selection from those recommended. Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves, effective July 1, 1974, exclusive of present terms begun prior to that date. The members shall hold office until their respective successors are appointed and qualified. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the *state librarian and commissioner* [~~county judge/executive~~], [~~with the approval of the fiscal court,~~] by appointment on recommendation of the *county judge/executive, with the approval of the fiscal court,* [~~state librarian and commissioner~~] of two (2) persons interested in the provision of library services and living in the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

The Committee Substitute to HB 269 is as follows:

HB 269, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class, the following method of creating a taxing district shall be an alternative to KRS 65.182 to 65.190:

(1) Persons desiring to form a taxing district shall present a petition to the fiscal court clerk and to each member of the fiscal court, requesting that the question of establishing the special district be placed upon the ballot for the next general election. The petition shall be signed by at least one hundred (100) registered voters from each senatorial district, contained wholly or partially within the proposed taxing district. If one hundred (100) registered voters do not reside within a senatorial district and within the boundaries of the proposed taxing district, then the petition shall be signed by twenty-five percent (25%) of the registered voters within said senatorial district. At the time of its submission to fiscal court each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

(a) The statutory authority under which the district is created and under which the taxing district will operate;

(b) The method of creating and appointing the governing body of such district if it is to be different from the general statutory authority under which it will operate;

(c) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

(d) A description of the service area including but not limited to the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

(e) A three (3) year projection of cost versus revenue and the method chosen for raising such revenues as authorized in this section;

(f) Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

(g) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk shall review the petition, and if the fiscal court determines that the signatures are valid, the fiscal court shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than sixty (60) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice which includes the time and place of the public hearing, alerts the public that the issue discussed at the hearing will be placed upon the ballot and includes an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) Following the public hearing, the fiscal court shall adopt a resolution submitting to the qualified voters of the county the question as to whether a taxing district should be established for the area and a special ad valorem tax or an occupational license fee imposed for the maintenance and operation of the district. A certified copy of the order of the fiscal court shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed upon the ballot.

(6) The question shall be stated so that the service to be provided by the district, the type of governing body and the method of financing as allowed by this section are clearly outlined.

(7) If a majority of those voting on the question favor the establishment of a special district with authorization to impose an ad valorem tax then it shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the Constitution of Kentucky. If a majority of those voting on the question favor the establishment of a special district with an increase in the occupational license fee as authorized by this section, it shall be so established and shall operate as set forth in the question on the ballot.

(8) If an ad valorem tax is approved, the county clerk shall add the levy to the tax bills of the county. For taxing purposes the effective date of the tax levy shall be January 1 of the year following the election. If an occupational license fee increase is approved, the appropriate legislative bodies shall add the levy to the occupational license fee as of January 1 of the year following the election. The tax or fee shall be collected in the same manner as are other county ad valorem taxes or occupational license fees and shall be turned over to the governing body of the district. The special ad valorem tax or fee shall be in addition to all other ad valorem taxes or occupational license fees.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

(10) A special district created pursuant to this section may be financed either by a special ad valorem tax imposed by the governing body of the district, as authorized by the voters in an election on the question, of an amount not to exceed ten (10) cents per one hundred dollars ($100) of assessed value of the property subject to local taxation of the district; or by a levy of occupational license fees by the public body or bodies with jurisdiction over the area served by the special district, if the levy has been approved by the voters in an election on the question. The special district shall not levy both an ad valorem tax and an occupational license fee. The occupational license fee shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions or occupations from activities conducted in the district, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(11) The budget of any taxing district created pursuant to this section shall be approved by the fiscal court if financed by an ad valorem tax, or by the fiscal court and the legislative body levying the fee, if funded by an occupational license fee increase. The board of the district shall submit its estimate of revenue and proposed budget to the appropriate approving body or bodies by May 1 of each year, and such body or bodies shall approve or amend the budget by June 1.

HB 617, AN ACT relating to jailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. [~~The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate.~~] The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's residence if owned by the county, and to keep the jailer's residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 2. KRS 71.050 is amended to read as follows:

The jailer is an officer of the circuit and district courts for his county. In any county where there is no jail [~~and the jailer does not transport prisoners,~~] the jailer shall serve as a bailiff to the circuit and district courts of the county *subject to his duties as transportation officer as prescribed by KRS 441.510(3).*

Section 3. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall maintain a local corrections training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning the training needs of jailers and jail personnel.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his participation in the local corrections training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury, provided, however, that such payments shall be discontinued if the jailer fails to complete basic training within one (1) year of taking office. Thereafter, expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsection (2) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

[~~(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall not participate in the local corrections training program nor shall he receive an expense allowance pursuant to this section.~~]

Section 4. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) Except as provided in subsection (3) of this section, in all other cases the sheriff of the county where the prisoner is incarcerated shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In any county where there is no jail or the county operates a holdover jail, the fiscal court shall adopt a transportation plan [~~which establishes the party responsible~~] for transporting prisoners, *and in any such plan, the jailer shall serve as a transportation officer to be responsible for transporting prisoners as necessary but only during the regular business hours of county government. The fiscal court may also require the sheriff to serve as a transportation officer to be responsible for transporting prisoners* as necessary[~~:~~

~~(a) The fiscal court may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or~~

~~(b) The fiscal court may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or~~

~~(c) The fiscal court may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.~~

~~(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the circuit and district courts of the county as provided for in KRS 71.050. The fiscal court may also require the jailer to serve as custodian of county buildings and grounds as provided for in KRS 67.130~~].

The Committee Amendment No. 1 to HB 617 is as follows:

Amend printed copy of HB 617:

on page 4, line 26, beginning with the word, "*but*" and continuing through to page 5, line 1, ending with the word, "*government*" by deleting all of the words in their entirety.

HB 630, AN ACT relating to sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.535 is amended to read as follows:

(1) The county clerk, county judge/executive and sheriff of each county shall receive a maximum monthly salary of one-twelfth (1/12) of fourteen thousand three hundred dollars ($14,300) to be paid solely out of the statutory fees and salaries received by him during the calendar year.

(2) The minimum annual compensation of the sheriff of each county shall be not less than the annual compensation which the county judge/executive receives pursuant to KRS 67.705. In those counties where the total annual fees and commissions of the office of the sheriff are not sufficient to pay the sheriff's minimum annual compensation and to provide reasonable and sufficient funds for the sheriff to perform those services mandated by law, the fiscal court shall appropriate reasonable and sufficient funds for these purposes. Any fiscal court which appropriates funds to pay the sheriff's minimum annual compensation or to provide reasonable and sufficient funds for the sheriff to perform those services mandated by law shall require the sheriff to prepare a budget for his office, which shall be subject to approval by the fiscal court, and may require that the sheriff pay all fees and commissions of his office to the county on a periodic basis.

HB 657, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, such monthly compensation as the fiscal court of each county shall fix, subject to the following minimums:

County Population	Monthly Minimum Compensation
(a) 10,000 or less	*$ 200* [~~$100~~]
(b) 10,001 to 20,000	*300* [~~150~~]
(c) 20,001 to 40,000	*350* [~~175~~]
(d) 40,001 to 60,000	*400* [~~200~~]
(e) 60,001 to 100,000	*450* [~~225~~]
(f) 100,001 to 150,000	800
(g) 150,001 or more	1,000

Provided, however, that coroners who hold a current certificate of continuing education, issued jointly by the bureau of training, department of justice, and the medical examiner program, department of justice, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of such training:

County Population	Monthly Minimum Compensation
(a) 10,000 or less	$ *300* [~~$150~~]
(b) 10,001 to 20,000	*400* [~~200~~]
(c) 20,001 to 40,000	*550* [~~325~~]
(d) 40,001 to 60,000	*650* [~~375~~]
(e) 60,001 to 100,000	*750* [~~450~~]
(f) 100,001 to 150,000	1,000
(g) 150,001 or more	1,200

(2) *Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban county treasury, whichever is appropriate, such monthly compensation as the fiscal court of each county shall fix, subject to the following minimums:*

County Population	*Monthly Minimum Compensation*
(a) 10,000 or less	*$ 100*
(b) 10,001 to 20,000	*150*
(c) 20,001 to 40,000	*175*
(d) 40,001 to 60,000	*200*
(e) 60,001 to 100,000	*225*
(f) 100,001 to 150,000	*800*
(g) 150,001 or more	*1,000*

(3) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the department of justice. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(4)[~~(3)~~] In the event a deputy coroner assumes the office of coroner after receiving the training stipulated in [~~subsections (1) and (2) of~~] this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

Section 2. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner *and his deputy* in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the department of training or other courses approved by the justice cabinet after having completed the basic training course the first year of employment.

HB 670, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.040 is amended to read as follows:

(1) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031 the trustees of such district are hereby authorized to establish and operate a fire department *and emergency ambulance service as provided in subsection (4) of this section* in such district and to levy a tax upon the property in said district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010 (2) provided that said property is subject to county tax, and not exceeding ten (10) cents per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of such establishment, maintenance and operation of said fire department or to make contracts for fire protection for such districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the revenue cabinet.

(3) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(4) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

The Committee Amendment No. 1 to HB 670 is as follows:

Amend printed copy of HB 670:

On page 2, line 25, by adding after line 25 "Section 2. KRS 75.255 is amended to read as follows:

With respect to audits and financial reports, [~~(1) At the end of each fiscal year,~~] the board of trustees of fire protection districts and volunteer fire department districts shall *follow the procedures of KRS 65.065* [~~employ a certified public accountant to audit the books and records of the district. The certified public accountant selected shall have no personal interest in the financial affairs of the board of trustees or in the financial affairs of the officers or employes of the district.~~

~~(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. Two copies of this report shall be transmitted to the board of trustees and one copy shall be transmitted to each county clerk within the fire protection or volunteer fire department district for the purpose of having the audit as part of the public records which shall be open for public inspection. A copy shall be posted for not less than thirty days.~~

~~(3) The actual expense of the audit report and the expense of the audit conducted shall be paid from the funds of the fire protection or volunteer fire department district.~~

~~(4) Fire protection and volunteer fire department districts not exercising their taxing authority pursuant to KRS 75.040 shall be exempt from the provisions of this section.~~

~~(5) This section shall not relieve any fire protection or volunteer fire department district from complying with the provisions of KRS 424.220~~].".

HB 716, AN ACT relating to compensation for utility property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The provisions of any other law, rule, or regulation notwithstanding, if any city, county, public body corporate or politic or special district or subdistrict furnishes, or proposes to furnish, utility services to customers of another utility by means of all or any part of the installations owned or paid for by such other utility, then such city, county, public body, district or subdistrict taking over or proposing to take over the customers, shall pay just compensation for such installations prior to the time the customers are taken over. If an agreement for compensation is not reached, then just compensation for the installations shall be payable by said city, county, public body, district or subdistrict after condemnation as provided for in the eminent domain act of Kentucky.

The Committee Amendment No. 1 to HB 716 is as follows:

Amend printed copy of HB 716:

On page 1, line 6, by inserting before the word "*utility*" the following: "*sewage treatment*"; and on page 1, line 7, by adding before the word "*utility*" the following: "*sewage treatment*"; and on page 1, line 9, by adding before the word "*utility*" the following: "*sewage treatment*".

HB 742, AN ACT relating to the volunteer fire department aid fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.250 is amended to read as follows:

(1) There is created and established within the department of housing, buildings and construction a volunteer fire department aid fund consisting of insurance premium surcharge proceeds as provided in subsection (2) of KRS 136.392. All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and in KRS 61.316.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the state fire marshal shall allot on an annual basis an equal share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the department of housing, buildings and construction as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) For the biennium beginning July 1, 1984 and ending June 30, 1986, two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the volunteer fire department aid fund shall be allocated each fiscal year of the biennium to the fire fighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for fire fighters. If any monies in the training center fund remain uncommitted, unobligated or unexpended at the close

of the first fiscal year of the biennium, then such monies shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the commission on fire protection personnel standards and education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of fire fighters training centers shall be submitted to the commission on fire protection personnel standards and education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the commission on fire protection personnel standards and education.

(6) Upon the written request of any department, the commission on fire protection personnel standards and education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the volunteer fire department aid fund during any fiscal year.

(8) The state fire marshal shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causitive agent of the loss;

(b) The volunteer fire department has made application in writing to the state fire marshal for reimbursement in a manner approved by the state fire marshal and the loss and the circumstances thereof have been verified by the state fire marshal;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The state fire marshal has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The state fire marshal has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer fire fighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the state fire marshal that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) In the event that a volunteer fire department has met all of the requirements of subsection (9) of this section the state fire marshal may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The state fire marshal shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this Act.

HB 777, AN ACT relating to local solid waste management services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate rules and regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.

(2) No sanitary landfill shall be acquired and constructed until the construction thereof has been approved in writing by the department. Planning for sanitary landfills shall be conducted only in accordance with the policy set forth in KRS 109.011(7).

(3) Except as provided in KRS 109.062, no county or waste management district shall prohibit or otherwise restrict the resource recovery of materials by:

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program; or

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program; or

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection; or

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection; or

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations.

(5) Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(6) The financing of solid waste services, which may include the operation, maintenance, equipment replacement and debt amortization of a solid waste management facility, may be provided by the imposition of a service charge upon the owner or owners of benefited properties for the benefits conferred. Solid waste management services may be provided directly by the county or through others under a contract or franchise. The county clerk shall place the service charge on a property owner's tax bill form prepared in accordance with the provisions of KRS 133.220. In the case of benefited properties in which no tax bill form is normally prepared, the county clerk shall prepare a bill form reflecting the service charge amount. The service charges shall be established by ordinance and shall be reasonable. The same schedule of charges shall apply to all users of the same class. Charges for solid waste services shall be collected by the sheriff upon receipt of the tax bills from the county clerk in accordance with KRS 134.140, 134.390 and 134.420.

(7) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(8)[~~(7)~~] Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.

(9)[~~(8)~~] Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(10)[~~(9)~~] Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.

(11)[~~(10)~~] In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations promulgated by the department on waste management pursuant to KRS Chapter 224.

(12)[~~(11)~~] No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(13)[~~(12)~~] Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

SB 233, AN ACT relating to 911 emergency telephone service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.760 is amended to read as follows:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county or urban-county government, and may adopt regulations concerning the provision of this service by ordinance.

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state.

The special tax, license or fee may include a charge to be collected from local exchange telephone subscribers in the area to be served by 911 service on an individual exchange line basis limited to a maximum of twenty-five (25) exchange lines per account. All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for this purpose. The governing body may apply for and accept federal monies, and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(4) Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

Motions, Petitions and Communications (continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 833, by Representative Cline:

Amend printed copy of HB 833:

On page 3, line 2, by deleting it in its entirety; and

On page 3, line 11, by deleting it in its entirety.

Floor Amendment No. 1 to HB 374, by Representative Burnette:

Amend printed copy of HB 374:

on page 3, line 14, after the "." insert the following language: "*Payment for expenses incurred from the audits shall be one-half (1/2) the responsibility of the fiscal court and one-half (1/2) from the appropriation pursuant to Section 3 of the Act except, if the county clerk failed to remit excess fees for that fiscal year to the fiscal court, then expenses for said audit shall be the sole responsibility of the transportation cabinet*".

on page 4, line 11, after the "." insert the following language: "*Payment for expenses incurred from the audits shall be one-half (1/2) the responsibility of the fiscal court and one-half (1/2) from the appropriation pursuant to Section 3 of the Act except, if the county clerk failed to remit excess fees for that fiscal year to the fiscal court, then expenses for said audit shall be the sole responsibility of the transportation cabinet*".

on page 5, line 17, change $500,000 to $250,000.

on page 5, line 17, beginning with the word, "each" and continuing through to the word "bienniums" on line 18, by striking these words in their entirety and inserting in lieu thereof the following: "FY 1986-87 and $250,000 out of the state treasury for FY 1987-88".

on page 5, line 19, beginning with the word "proportionately" and continuing through to line 22, ending with "134.800" by deleting all of this language in its entirety and inserting in lieu thereof the following:

"paid from the state road fund by the transportation cabinet from any funds appropriated to it by the general appropriations Act".

Floor Amendment No. 1 to HB 698, by Representative Cowan:

Amend printed copy of HB 698:

on page 3, line 21, beginning after "(2)" by deleting the remainder of line 21;

on page 3, line 22, by deleting this line in its entirety;

on page 3, line 23, by deleting this line in its entirety;

on page 3, line 24, beginning with the word, "*in*" and continuing through to the word, "*penitentiary*" by deleting these words in their entirety;

on page 3, line 24, by removing the bracket in front of the word "[when" and beginning with the word "when" and continuing through to page 4 line 1 ending with the word "fee" by removing the strikethroughs from all of these words in their entirety;

on page 4, line 1, by placing a bracket in front of the word "of" and by placing a bracket after the "($10)";

on page 4, line 1, beginning with the word, "per" and continuing through to line 4, ending with the word "penitentiary" by removing the strikethroughs from all of these words in their entirety;

on page 4, line 4, by removing the bracket after the word "penitentiary".

Floor Amendment No. 1 to SB 86, by Representative Heleringer:

Amend printed copy of SB 86:

On page 6, after line 16 by adding:

"SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of this subtitle, after an insured has been licensed to drive an automobile for two (2) years, an insured's private passenger automobile insurance rates shall be based solely on the driving record of the insured.

SECTION 3. Section 2 of this Act shall become effective on July 1, 1987."

Floor Amendment No. 3 to the Committee Substitute to HCR 65, by Representative Hancock:

Amend printed copy of Committee Substitute for HCR 65:

On page 1, line 1 of the preamble, after "Whereas," by inserting the following:

"Article V of the Constitution of the United States provides a constitutional convention shall be called by Congress upon application of two-thirds of the several states; and

Whereas, a constitutional convention has not been called since the Constitution of the United States was adopted; and

Whereas, a number of states have petitioned Congress to call a limited constitutional convention; and

Whereas, legal scholars disagree on whether a call for a constitutional convention is subject to limitation;" ;

On page 1, line 1 of the preamble, after "WHEREAS" by deleting

"the annual national deficit exceeds two";

On page 1 by deleting lines 2 through 12 of the preamble;

On page 2, line 1, after "Section 1" by inserting the following:

"That if an amendment to the United States Constitution is not proposed by Congress providing for a balanced federal budget, then this body petitions and requests the Congress of the United States to enact legislation which would establish the procedure for the several states to call a limited constitutional convention to address specified subjects for inclusion in the United States Constitution."

Section 2. "That it is the sense of this body that enactment of legislation providing for a limited constitutional convention would result in litigation challenging the constitutionality of congress' authority to enact such legislation under Article V of the United States Constitution, and that the Supreme Court of the United States would exercise its original jurisdiction as an actual case or controversy would exist within Article 3 Section 2 of the United States Constitution, and that the issue of calling a limited constitutional convention would be finally resolved without jeopardizing the existing articles of and amendments to the United States Constitution.";

On page 1, line 1, after "Section 1." by deleting:

"That the Congress of the United States of";

On page 2 by deleting lines 2 through 16.

Floor Title Amendment No. 3 to the Committee Substitute to HCR 65, by Representative Hancock:

Amend printed copy of Committee Substitute to HCR 65:

On page 1, line 2 of the title after "United States to" by inserting:

"enact legislation establishing procedures for calling a limited constitutional convention";

On page 1, line 2 of the title after "United States to" by deleting "propose an amendment";

On page 1 by deleting lines 3 through 7 of the title.

Floor Amendment No. 4 to HCR 65, by Representative Hancock:

Amend printed copy of HCR 65:

On page 1, line 1 of the preamble, after "Whereas," by inserting the following:

"Article V of the Constitution of the United States provides a constitutional convention shall be called by Congress upon application of two-thirds of the several states; and

Whereas, a constitutional convention has not been called since the Constitution of the United States was adopted; and

Whereas, a number of states have petitioned Congress to call a limited constitutional convention; and

Whereas, legal scholars disagree on whether a call for a constitutional convention is subject to limitation;" ;

On page 1, line 1 of the preamble, after "WHEREAS" by deleting

"the annual national deficit exceeds two";

On page 1 by deleting lines 2 through 12 of the preamble;

On page 2, line 1, after "Section 1" by inserting the following:

"That if an amendment to the United States Constitution is not proposed by Congress providing for a balanced federal budget, then this body petitions and requests the Congress of the United States to enact legislation which would establish the procedure for the several states to call a limited constitutional convention to address specified subjects for inclusion in the United States Constitution."

Section 2. "That it is the sense of this body that enactment of legislation providing for a limited constitutional convention would result in litigation challenging the constitutionality of congress' authority to enact such legislation under Article V of the United States Constitution, and that the Supreme Court of the United States would exercise its original jurisdiction as an actual case or controversy would exist within Article 3 Section 2 of the United States Constitution, and that the issue of calling a limited constitutional convention would be finally resolved without jeopardizing the existing articles of and amendments to the United States Constitution.";

On page 2, line 1, after "Section 1." by deleting:

"That the Congress of the United States of";

On page 2 by deleting lines 2 through 23; and

On page 2, line 24 by inserting

"Section 3" and by deleting "Section 5".

Floor Title Amendment No. 4 to HCR 65, by Representative Hancock:

Amend printed copy of HCR 65:

On page 1, line 2 of the title after "United States to" by inserting:

"enact legislation establishing procedures for calling a limited constitutional convention";

On page 1, line 2 of the title after "United States to" by deleting "propose an amendment;

On page 1 by deleting lines 3 through 7 of the title.

Floor Amendment No. 1 to HB 748, by Representative Gedling:

Amend printed copy of HB 748:

on line 11, after "*and*" insert "*twenty-five (25) cents*"; and at the end of line 12, after "*247.685*" add "*and twenty-five (25) cents shall be used for the purpose of promoting Kentucky beef only*"

Floor Amendment No. 2 to HB 152, by Representative Hancock:

Amend printed copy of HB 152:

on page 26, line 19, by deleting line 19 in its entirety.

Floor Amendment No. 1 to the Committee Substitute to HB 570, by Representative Williams:

Amend printed copy of Committee Substitute to HB 570:

On page 4, after line 22, add the following:

"Section 2. KRS 157.620 is amended to read as follows:

(1) In order to participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Levy a minimum equivalent tax rate of twenty-five (25) cents as defined by KRS 157.615;

(b) All [~~new~~] revenue generated by any tax increase required to meet the minimum equivalent tax rate *may be added to the power equalization funds used to supplement the instructional program as provided in KRS 157.580. Revenue generated by the tax increase not required to meet the provisions of KRS 157.580 shall* [~~must~~] be placed in a restricted account for school building construction bonding; and

(c) On July 29, 1985 and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the department of education, to transfer funds restricted by this Act for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the general assembly the state board of education shall submit a statement to the school facilities construction commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the state board of education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the state board of education since January 1, 1981 shall be revised by December 31, 1985. The state board of education shall conduct public hearings on all amendments to approved plans.

Floor Title Amendment No. 1 to the Committee Substitute to HB 570, by Representative Williams:

Amend printed copy of Committee Substitute to HB 570:

By amending the title to read as follows:

''AN ACT relating to school taxes.''

Floor Amendment No. 1 to HB 215, by Representative Farrow:

Amend printed copy of HB 215:

On page 1, line 8, between ''services'' and ''the'', by deleting the comma and inserting in lieu thereof ''and''; and

On page 1, lines 8 and 9, by deleting ''and the medical examiners branch''; and

On page 1, after line 9, by adding the following:

"Section 2. In lieu of the medical examiners branch established by Executive Order 85-839, the General Assembly hereby establishes the medical examiners division within the Office of the Secretary of the Justice Cabinet.''.

Floor Amendment No. 2 to HB 215, by Representative Farrow:

Amend printed copy of HB 215:

On page 1, line 9, by deleting ''branch'' and inserting in lieu thereof ''division''.

Floor Amendment No. 3 to HB 551, by Representative Donnermeyer:

Amend printed copy of HB 551:

On page 2, line 8, by adding after the word ''*purchaser*'', a new subsection to read as follows:

''*(6) Every returnable container of draft beer which is shipped into the Commonwealth of Kentucky shall have conspicuously displayed a universal product code number.*''

Floor Amendment No. 4 to the Committee Substitute to HB 490, by Representative Reinhardt:

Amend printed copy of Committee Substitute for HB 490:

On page 4, on line 10,

By inserting after the word ''*installers*'' the following:

"*except master plumbers licensed pursuant to KRS Chapter 318*"

On page 5, on line 23,

By inserting a new subsection which reads as follows:

"*(3) Nothing in this Act shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to the effective date of this Act unless such inspection is deemed necessary due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint.*"

Floor Amendment No. 1 to HB 494, by Representative Freibert:

Amend printed copy of HB 494:

On page 1, line 13, by deleting the word "*felony*" and inserting in lieu thereof the words "*sex offense*";

And on line 15, by deleting the word "*felony*" and inserting in lieu thereof the words "*sex offense*";

And on page 3, line 21, by deleting the words "*felony crime*" and inserting in lieu thereof the words "*sex offense*";

And on line 25, by deleting the words "*felony crime*" and inserting in lieu thereof the words "*sex offense*".

Floor Amendment No. 2 to HB 494, by Representative Freibert:

Amend printed copy of HB 494:

On page 3, between lines 25 and 26, by inserting a new subsection 3 to read as follows:

"*(3) No licensee who operates a day care center as defined in KRS 199.894 may retain a license to operate if such licensee has been convicted of any sex offense.*"

Representative Long moved that HB 674 be recommitted to the Committee on Natural Resources and Environment. Agreed.

Representative Meyer moved that HB 84, HB 375, and HB 538 be withdrawn. Agreed.

Representative Turner requested that he be recorded as changing his vote from "nay" to "yea" on HB 225 and that he be recorded as voting "yea" on HB 627. Agreed.

Representative Lyne requested that she be recorded as voting "yea" on HB 46. Agreed.

Representative Freibert requested that she be recorded as voting "yea" on HB 482. Agreed.

Representative Reinhardt requested that he be recorded as voting "yea" on HB 682. Agreed.

Representative White requested that she be recorded as voting "yea" on SB 208. Agreed.

Representative Holbrook requested that he be recorded as voting "yea" on HB 221. Agreed.

Representative T. Jones requested that he be recorded as changing his vote from "yea" to "nay" on HB 409; "yea" on SB 50, and "yea" on HB 427. Agreed.

Representative Noe requested that his vote be changed from "yea" to "nay" on HB 409. Agreed.

Representatives Barrows requested that he be recorded as voting "yea" on HB 561. Agreed.

Representative Ellington requested that he be recorded as voting "yea" on HB 682. Agreed.

Representative Stewart requested that his vote be changed from "nay" to "yea" on HCR 75. Agreed.

Representative Turner moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Turner moved the adoption of the following HR 138:

HR 138, A RESOLUTION in memory of Lonnie M. Davisworth, former state representative.

WHEREAS, Lonnie M. Davisworth passed away on Tuesday, March 4; and

WHEREAS, Lonnie Davisworth served the people of the Commonwealth as a state representative for Harlan and Leslie Counties in 1938, as the mayor of Cumberland in the early thirties, and at one time as a member of the Cumberland draft board; and

WHEREAS, Lonnie Davisworth was also known and respected by the many customers he served in his Broadway Meat Market and later in the Davisworth Grocery in Lexington; and

WHEREAS, Lonnie Davisworth was a former president of the Kentucky Food Association; and

WHEREAS, Lonnie Davisworth was a loving and devoted husband and father;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House laments the sad loss of this former legislator and extends its condolences to his bereaved family.

Section 2. That when the House adjourns this day Wednesday, March 5, 1986, it does so in memory of Lonnie Davisworth.

Section 3. That copies of this resolution be sent to his wife, Elizabeth Blair Davisworth, and his daughter, Eulah Gray Maggard.

HR 138 was adopted by voice vote.

Representative Mann moved that the rules be suspended to waive the three-day posting requirement on SB 260. Agreed.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bendl, HB 915; Representative F. Brown, HB 915; Representative M. Brown, HB 790; Representative Bruce, HB 915; Representative Ellington, HB 672; Representative Freibert, HB 672; Representative Gedling, HB 915; Representative J. Harper, HB 915; Representative Heleringer, HB 915: Representative Lefevers, HB 915; Representative Little, HB 915; Representative Mann, HB 915; Representative Morris, HB 915; Representative Napier, HB 915; Representative Noland, HB 915; Representative Preston, HB 869; Representative Reinhardt, HB 339; Representative Seum, HB 915; Representative Strong, HB 860, HB 869; Representative Turner, HB 915; Representative White, HB 915.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 6, 1985.

On the roll call the vote was yeas 79—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, F. Brown, M. Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, Handy, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Pritchett, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 4—Bronger, Heleringer, Holbrook, LeMaster.

The motion to adjourn was adopted.

THURSDAY, MARCH 6, 1986

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Ben Browen, St. Thomas Catholic Church, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 5, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 198, HB 220 with Senate Amendment, HB 612.

Introduction of Bills and Resolutions

HB 942, by Representatives Stumbo, Deskins, Cyrus, White, Maggard, Dawahare, Noe, Rose, Strong, Little, F. Brown, Keith, Todd, Preston and M. Brown: AN ACT relating to taxation.

HB 943, by Representative LeMaster: AN ACT making an appropriation to the Cooperative Extension Service.

HB 944, by Representative B. Richardson: AN ACT relating to district health departments.

HB 945, by Representatives T. Jones, Barrows and Clarke: AN ACT relating to state government regulation.

HB 946, by Representative Stumbo: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

HB 947, by Representatives Smith, P. Richardson, Little, Allen, Burch, Todd, Blevins, Clarke, Head, Handy, Mann, Seum, Gedling, Bronger, Bruce, Stumbo, Kerr, B. Richardson and Maggard: AN ACT proposing an amendment to the Kentucky Constitution relating to terms of office of General Assembly members and related matters.

HB 948, by Representative Caldwell: AN ACT relating to health insurance.

HB 949, by Representatives Caldwell, Noland, Siler, Napier, Allen, Holbrook, Lile, Williams, Todd, J. Harper, Jensen, K. Harper and Stewart: AN ACT relating to community work experience programs.

HB 950, by Representative LeMaster: AN ACT relating to education.

HB 951, by Representative LeMaster: AN ACT relating to liability insurance rates.

HB 952, by Representative White: AN ACT relating to textbooks.

HB 953, by Representative K. Harper: AN ACT relating to the Commission for Handicapped Children.

HB 954, by Representative Bronger: AN ACT relating to metropolitan sewer districts.

HB 955, by Representative Bronger: AN ACT relating to taxation by cities.

HB 956, by Representative Stumbo: AN ACT relating to public utilities.

HB 957, by Representative Scorsone: AN ACT relating to consumer protection.

HB 958, by Representative Rapier: AN ACT relating to alcoholic beverage control.

HB 959, by Representative Rapier: AN ACT relating to revenue and taxation.

HB 960, by Representative Stewart: AN ACT relating to health care information.

HB 961, by Representative Stewart: AN ACT relating to delinquent child support payments.

HB 962, by Representative Stewart: AN ACT relating to insurance.

HB 963, by Representatives Williams and Overstreet: AN ACT relating to legislative districts.

HJR 139, by Representatives Blandford, Stumbo, Rapier, Donnermeyer and Worthington: A JOINT RESOLUTION directing the Legislative Research Commission to appoint a task force to study and investigate the entire insurance industry, including the Kentucky department of insurance, and its effects on Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 897.

Appropriations and Revenue: HB 892, HB 894, HB 895, HB 904, HB 909, HB 910, HB 915.

Banking and Insurance: HB 888, HB 902.

Business Organizations and Professions: HB 884, HB 911.

Cities: HB 903, SB 278, HB 912.

Education: HB 889, HB 896.

Energy: HB 899, HB 900, HB 901.

Health and Welfare: HB 907, HCR 121, SB 210.

Labor and Industry: HB 887, HB 914.

Natural Resources and Environment: HB 890, HB 898, HB 906.

State Government: HB 885, HB 891, HB 893, HB 905, HB 908, HCR 131.

Transportation: HB 913.

Posting of Bills for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: HB 638, HB 903, HB 771, HB 833 and SB 251.

Banking and Insurance: HB 888.

Labor and Industry: HB 710.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Cities: HB 625.

Report of Committees

The Committee on Rules reported HB 105, HB 149, HB 205, HB 298, HB 510, SB 182, HB 473, HB 666 and HB 698 have been posted for passage March 7, 1986.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: HB 639, HB 774 and HB 546.

The Committee on Energy reported HB 745 and SB 260 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 745, AN ACT relating to utilities in cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.173 is amended to read as follows:

(1) The salary of each member of the board shall be fixed by the board, and shall not exceed *two thousand four hundred dollars ($2,400)* [~~one thousand two hundred dollars ($1,200)~~] per annum.

(2) Such salaries, as well as the salary of the secretary-treasurer of such board, shall constitute a cost of operation and maintenance of the plant.

(3) The municipality shall not be liable for the payment of any salary or compensation of any of the members of said board, or for the payment of the salary or compensation or expenses of any person employed by said board, and all such salaries, compensation and expenses and any and all liabilities, of whatever kind or character incurred by the board or any officer or employe thereof, shall be payable solely and only out of the revenues obtained by said board under the provisions of KRS 96.171 to 96.188, and said liabilities shall be so limited.

Section 2. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage and control the plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to such plants by KRS 96.520, and by any ordinance enacted under that section (except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted thereunder). The utility commission, when so appointed, shall be and hereby is declared to be a public body politic and corporate, with perpetual succession; and said body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employes needed to operate the plant. In cities of the second or third class providing civil service coverage for city employes the utility commission appointed under this section shall provide such civil service coverage for all of its employes and it shall exercise the powers and functions with respect to such employes which are vested in the city legislative body with respect to the city employes by KRS 90.380. Employes who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employes under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by such civil service coverage. Out of the revenue of the plant it shall pay operating expenses, repairs and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to such plants by KRS 96.520 (except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted thereunder). Notwithstanding the foregoing provisions the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative

body. No officer or employe of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of said commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed:

(a) *Two thousand four hundred dollars ($2,400)* [~~One thousand two hundred dollars ($1,200)~~] per annum, if the city does not own or operate electric generation facilities; or

(b) *Two thousand four hundred dollars ($2,400)* [~~One thousand eight hundred dollars ($1,800)~~] per annum, if the city owns or operates electric generation facilities.

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.

Section 3. KRS 96.750 is amended to read as follows:

(1) The salary of each member of a board of public utilities may be fixed by the board at not exceeding *two thousand four hundred dollars ($2,400)* [~~one thousand two hundred dollars ($1,200)~~] per annum.

(2) Such salaries, as well as the salary of the secretary-treasurer, shall constitute a cost of operation and maintenance of the electric plant.

(3) The governing body of the municipality may, by resolution or ordinance, provide that the municipality shall not be liable for the payment of any salary or compensation of any of the members of said board, or for the payment of the salary or compensation or expenses of any person employed by said board, and that such salaries, compensation and expenses and any and all liabilities, of whatever kind or character incurred by the board or any officer or employe thereof, shall be payable solely and only out of revenues obtained by said board under the provisions of KRS 96.550 to 96.900, and said liabilities shall then be so limited.

SB 260, AN ACT relating to rural electric cooperative corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.100 is amended to read as follows:

(1) Only a member of a corporation organized under this chapter may own its common stock, and neither the common stock in any such corporation nor any interest therein shall be transferable or assignable, either by act of the parties or by operation of law, to any person who is not eligible to be a member of the corporation.

(2) No corporation formed under this chapter shall issue common stock to a member until it has been fully paid for, but the promissory notes of a member may be accepted by the corporation as full or partial payment. The corporation shall hold the stock as security for the payment of the note, but such retention as security shall not affect the member's right to vote.

(3) No person, other than a corporation formed under this chapter, shall at any one time own more than five per cent (5%) of the outstanding common stock of any corporation formed under this chapter.

(4) [~~No corporation formed under this chapter shall pay dividends on either its common stock or its preferred stock in an amount greater than four per cent (4%) per annum on each class of stock.~~

~~(5)~~] Any such corporation may at any time, as specified in its bylaws, except when the debts of the corporation exceed fifty per cent (50%) of its assets, buy in or purchase its common stock at the book value thereof, as conclusively determined by its board of directors, and pay for it in cash within one (1) year thereafter.

(5)[~~(6)~~] Preferred stock may be owned by and transferred to any person, and may be made redeemable and retirable by the corporation on such terms and conditions as are provided for in the articles of incorporation and printed on the face of each certificate. Ownership of preferred stock shall not confer on the holder any right to vote.

The Committee on Natural Resources and Environment reported HB 743, SB 99 with Committee Amendment attached thereto, SB 100, SB 101 with Committee Amendments attached thereto and SB 130 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 743, AN ACT relating to hazardous materials incidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "hazardous material" means any material which is classified as a hazardous material or a hazardous waste by state or federal law or regulation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Any fire department which responds to an incident in which a hazardous material has been spilled, released into the atmosphere or water, is on fire, has exploded, is leaking, or is in close proximity to a fire or other emergency scene or in which there is a potential for the spill, release into the atmosphere or water, fire, or explosion of a hazardous material shall, by direction of the highest officer of the department present on the scene, forthwith report the incident to the state fire marshal through the emergency operations center of the division of disaster and emergency services and shall provide at least the following information:

(a) The exact location of the incident;

(b) The hazardous materials involved (if known);

(c) The quantities of hazardous materials involved (if known);

(d) The nature of the incident;

(e) The present ability of the fire department to deal with the incident;

(f) What resources are available to handle the incident;

(g) What additional resources are needed to handle the incident; and

(h) Such other information as may be requested by the state fire marshal.

(2) The state fire marshal shall determine whether or not his presence is required at the scene of the incident. If he determines that his presence is required or if his presence has been requested by the local fire officer in command he may respond to the scene or direct that a deputy state fire marshal respond to the scene of the incident.

(3) In the absence of the chief of a fire department created pursuant to KRS Chapters 67, 75 or 95, upon the arrival of the state fire marshal or a deputy state fire marshal on the scene of a hazardous materials incident, the state fire marshal or his deputy may take command of any fire service personnel on the scene of the incident and direct their actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

The state fire marshal, deputy state fire marshal, or highest ranking fire department officer present at the scene of a hazardous materials incident, may order the evacuation of as large an area as he deems necessary for the protection of the public from fire loss, for such length of time as required to render the evacuated area safe for the return of the evacuees.

SB 99, AN ACT relating to solid waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the environmental quality commission;

(6) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(7) "Cabinet" means the natural resources and environmental protection cabinet;

(8) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(9) "District" means an air pollution control district as provided for in KRS Chapter 77;

(10) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(11) "Generator" means any person, by site, whose act or process produces hazardous waste;

(12) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(13) "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(14) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(15) "Recovered material" means waste material and byproducts which have been recovered or diverted from waste, but does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

(16) "Recycling" means any treatment process for the reclamation of material or energy from waste;

(17) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(18) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(19) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(20) "Waste site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(21) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(22) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(23) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(24) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; [~~nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 stat. 923);~~]

(25) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.115 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (PL 94-580);

(26) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground

water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(27) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(28) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(29) "NPDES" means National Pollutant Discharge Elimination System;

(30) "Manifest" means the shipping document originated and signed by the generator, used in a management control system to trace the movement of hazardous wastes from generation to final disposal;

(31) "Open dump" means any facility or site for the disposal of solid waste which does not *have a valid permit issued by the cabinet or does not* meet the *environmental performance standards* [~~criteria~~] for a sanitary landfill under regulations promulgated by the cabinet [~~which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended (PL 94-580), and which is not a facility for disposal of hazardous waste~~];

(32) "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approved county or multi-county solid waste management plan;

(33) "Solid waste management area" or "area" means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan;

(34) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise.

Section 2. KRS 224.835 is amended to read as follows:

(1) No person shall transport to or dispose of waste at any site or facility other than a site or facility for which a permit for waste disposal has been issued by the cabinet. Upon request, any transporter of waste shall receive from the cabinet a current list of permitted waste disposal sites or facilities and shall be subsequently notified of any new permits or changes in the status of permits for waste disposal sites and facilities in the Commonwealth.

(2) The use of open dumps is prohibited except in the case of an open dump which is under a [~~cabinet approved~~] timetable or schedule for compliance *approved by the cabinet. The cabinet may enjoin the operation of any open dump which does not have a timetable or schedule of compliance approved by the cabinet.* [~~Such timetable or schedule for compliance shall contain an enforceable sequence of actions or operations leading to compliance not to exceed five (5) years from July 15, 1980.~~]

(3) The cabinet may require any person who violates this section or KRS 224.842 to take appropriate response actions to close and reclaim, or upgrade open dumps to comply with applicable landfill regulations promulgated by the cabinet. If a demand for response action is not implemented within a time period specified in a demand or timetable or schedule for compliance issued or approved by the cabinet, the cabinet may enjoin the operation of the open dump and restore the site.

(4) Except as provided in KRS 224.857, the cabinet may assess any person who violates this section by failing to take appropriate actions to close and reclaim or upgrade open dumps, damages in an amount equal to the cost of closure as estimated by the cabinet. The money collected shall be placed in the agency account established under KRS 224.846(4) to be used for the site closure and restoration. Any money remaining after

site closure and restoration from the amount assessed shall be returned to the person against whom any assessment was made.

Section 3. KRS 224.842 is amended to read as follows:

[~~(1)~~] No person shall establish, construct, operate, maintain, or permit the use of a waste site or facility without first having obtained a permit from the cabinet to establish, construct, maintain, operate or permit the use of the waste site or facility pursuant to rules and regulations promulgated by the cabinet.

[~~(2) In counties containing cities of the first class, no permit shall be issued for a facility for the land disposal of solid waste as defined in KRS 224.005 not in existence on July 15, 1982 if such facility is located within one (1) mile of any incorporated area.~~]

The Committee Amendment No. 1 to SB 99 is as follows:

Amend printed copy of SB 99:

On page 8, lines 8 through 12, by removing the brackets and strikethroughs, except for the following language on line 11: "(PL 94-580)" which should be bracketed and struckthrough.

SB 100, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.877 is amended to read as follows:

(1) As used in this section:

(a) "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(b) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive.

(c) "Preventive measures" mean the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan.

(d) "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal clean water act—(P.L. 92-500), as amended.

(2) The cabinet shall promulgate regulations designating the hazardous substances subject to the provisions of this section.

(3) Persons possessing or controlling a hazardous substance shall immediately notify the cabinet of any discharge which exceeds the limits permitted by law. Notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making such a notification in any criminal proceeding.

(4) Persons having possession of or control over a hazardous substance being discharged or who caused the discharge shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any discharge into the air, lands or waters of the Commonwealth.

(5) The cabinet shall be the lead agency for hazardous substance emergency spill response and, after

consultation with other affected federal, state and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the discharge of hazardous substances. The contingency plan shall:

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land and waters of the Commonwealth caused by the discharge of hazardous substances;

(b) Include containment, cleanup and disposal procedures;

(c) Provide for restoration of the lands or waters affected to the satisfaction of the cabinet;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing and disposing of discharged hazardous substances.

(6) The cabinet shall have the authority, power and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual costs expended in response to an environmental emergency. Except as provided in paragraph (b) *of this subsection*, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof or the amount of liability of any person;

(b) Notwithstanding paragraph (a) *of this subsection*, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of section 311(b)(3) of the federal clean water act from any person liable therefor under section 311 of the federal clean water act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the discharge is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance or take any other emergency action which it deems appropriate under the circumstances, including, but not limited to, issuance of an emergency order as provided in KRS 224.071 to the person possessing, controlling or responsible for the discharge of the hazardous substance as necessary for the protection of the environment and public health, safety or welfare;

(d) Any duly authorized officer, employe or agent of the cabinet may upon notice to the owner or occupant enter any property, premises or place at any time for the purposes of this section, if such entry is necessary to prevent damage to the air, land or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(7) *The cabinet shall have a lien against the real and personal property of a person liable for the actual costs expended in response to an environmental emergency or cleanup, as provided for in subsection (6) of this section. The lien shall be filed with the county clerk of the county in which the property of the person is located.*

(8) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to section 311 of the federal clean water act (P.L. 92-500) as amended, but rather shall be used to provide the Commonwealth with a mechanism for more immediate response to emergencies resulting from the discharge of hazardous substances.

SB 101, AN ACT relating to waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the environmental quality commission;

(6) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(7) "Cabinet" means the natural resources and environmental protection cabinet;

(8) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(9) "District" means an air pollution control district as provided for in KRS Chapter 77;

(10) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(11) "Generator" means any person, by site, whose act or process produces hazardous waste;

(12) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(13) "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(14) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(15) "Recovered material" means waste material and byproducts which have been recovered or diverted from waste, but does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

(16) "Recycling" means any treatment process for the reclamation of material or energy from waste;

(17) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(18) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(19) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(20) "Waste site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(21) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(22) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(23) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(24) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; [~~nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 stat. 923);~~]

(25) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.115 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (PL 94-580);

(26) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(27) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(28) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil,

industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(29) "NPDES" means National Pollutant Discharge Elimination System;

(30) "Manifest" means the *form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage* [~~shipping document originated and signed by the generator, used in a management control system to trace the movement of hazardous wastes from generation to final disposal~~];

(31) "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the cabinet which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended (PL 94-580), and which is not a facility for disposal of hazardous waste;

(32) "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approved county or multi-county solid waste management plan;

(33) "Solid waste management area" or "area" means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan;

(34) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise*;*

(35) "Hazardous constituent" means the component of a substance that has been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms;

(36) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave.

Section 2. KRS 224.864 is amended to read as follows:

(1) The cabinet shall promulgate regulations which establish standards for the generators of hazardous waste *by amount of waste generated* requiring such generators to do *any or all of* the following:

(a) Compile and maintain such information and record keeping regarding the quantities of hazardous waste generated, characteristics and composition of such waste and disposition of hazardous waste generated;

(b) Utilize proper labeling and containerization of hazardous waste as required by the cabinet;

(c) Utilize a manifest for each shipment of hazardous waste and assure that the facility to which the waste is designated is a permitted facility;

(d) Provide information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of hazardous waste;

(e) Keep all records and copies of manifest readily available for review and inspection by the designated representative of the cabinet;

(f) Retain all records and manifest copies for a minimum of three (3) years or as required by the cabinet;

(g) Compile a periodic report of hazardous waste generated, stored, transferred, treated, disposed or transported for treatment, storage, or disposal as required by the cabinet.

(2) Any person who generates waste in this state shall make a determination as to whether or not such waste is hazardous pursuant to criteria promulgated by the cabinet, and any generator of hazardous waste shall

certify that all information required in notices or reports to the cabinet or information provided on the manifest document is factual.

(3) The cabinet shall promulgate regulations specifying the criteria by which wastes may be determined to be hazardous and based on use of these criteria maintain and update a list of wastes identified as hazardous wastes which shall be subject to the hazardous waste management provisions of KRS 224.862 to 224.874. The criteria and lists promulgated by the cabinet shall be identical to any such criteria and lists proposed or promulgated by the U. S. environmental protection agency pursuant to the resource conservation and recovery act of 1976, as amended (PL 94-580). In providing for the management of hazardous waste, the cabinet shall establish classes or categories of hazardous waste reflecting the relative degree of hazard consistent with *the resource conservation and recovery act of 1976, as amended, (P.L. 94-580),* [~~P.L. 94-580~~] and regulations issued pursuant thereto. Any person generating any substance which either meets the criteria or is identified as hazardous waste shall within ninety (90) days of promulgation of the regulation so notify the department.

Section 3. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first *notifying the cabinet and* obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste *site or* [~~disposal~~] facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5), except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) through KRS 224.855(4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in subsections (b) and (c) of this section; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) *The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list*

promulgated by the U.S. environmental protection agency pursuant to the resource conservation and recovery act of 1976, as amended,.(P.L. 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous. [~~Any hazardous waste which would migrate, leach, or generate gas in its normal state shall not be disposed of in a landfill unless such waste has been either neutralized, detoxified, solidified, encapsulated or otherwise treated so that the character of the waste is such that it will prevent substantial migration, leaching or gas generation or unless the landfill is designed and constructed in such manner as will prevent substantial migration, leaching or gas generation, that in either case may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment.~~]

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased *and an estimate of the cost of post-closure care.* In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure.

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant.

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of *corrective action on and off-site and* satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility and until termination. The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). A hazardous waste disposal facility shall maintain additional excess liability coverage in the amount of at least ten million dollars ($10,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be five million dollars ($5,000,000) per occurrence with an annual aggregate of ten million dollars ($10,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal bankruptcy code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the comprehensive environmental response, compensation and liability act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

Section 4. KRS 224.873 is amended to read as follows:

The cabinet shall promulgate regulations establishing standards applicable to transporters of hazardous waste regarding record keeping, *notification* and compliance with the manifest system. The transportation cabinet and the justice cabinet shall cooperate with and assist the cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to this chapter. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets.

SECTION 5. A NEW SECTION OF KRS 224.855 TO KRS 224.871 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other authority or power, the cabinet shall have the authority and power:

(a) To prohibit the placement of bulk or noncontainerized liquid hazardous wastes or free liquids contained in hazardous wastes (whether or not absorbents have been added) in any landfill;

(b) To minimize the disposal of containerized liquid hazardous wastes in landfills and minimize the presence of free liquids in containerized hazardous wastes to be disposed in landfills;

(c) To prohibit the disposal in landfills of any liquids including those that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations;

(d) To regulate the production, burning and transporting of any fuel derived from any hazardous waste, any mixture of a material and hazardous waste or from used oil and any other material; and the distribution and marketing of any fuel produced from hazardous wastes, a mixture of hazardous waste and any material or from used oil or any other material or which otherwise contains used oil or any hazardous waste. In regulating any persons and facilities pursuant to this paragraph the cabinet may include but not be limited to establishing requirements for notification, labeling, record keeping, incineration, and any other requirement deemed necessary by the cabinet to protect human health and the environment;

(e) To require corrective action prior to issuing, renewing, or amending a permit for all releases of hazardous wastes or constituents from any waste management unit at a treatment, storage or disposal facility, regardless of when the wastes were placed in such unit. Permits issued, renewed, or amended shall contain schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action whenever the corrective action cannot be completed prior to a final decision on the permit;

(f) To require or order, at facilities for the treatment, storage or disposal of hazardous wastes, that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility demonstrates that after using best efforts the necessary permission to undertake such action could not be obtained. This requirement applies to all facilities operating under permits issued pursuant to KRS 224.855 to 224.868 and all landfills, surface impoundments, and waste pile units (including any new units, replacement of existing units or lateral expansions of existing units) which receive hazardous wastes after July 26, 1982;

(g) To condition and issue permits that contain terms and conditions that are necessary to protect human health and the environment;

(h) To require any landfill, surface impoundment, land treatment unit or waste pile unit permitted to operate which receives hazardous waste after July 26, 1982 to comply with the standards concerning groundwater monitoring, unsaturated zone monitoring, and corrective action which are applicable to new landfills, surface impoundments, land treatment units, and waste pile units required to be permitted under this chapter;

(i) To impose such requirements as may be necessary to protect human health and the environment at any existing landfills, surface impoundments or class of surface impoundments from which the cabinet determines hazardous constituents are likely to migrate into groundwater. Such requirements may include those which would apply if such facility was new;

(j) To regulate the generation, transportation, and use of used oil which is recycled as necessary to protect human health and the environment;

(k) To regulate hazardous waste that is radioactive except to the extent that such waste is source, special nuclear or by-product material as defined by the atomic energy act of 1954, as amended, (68 State. 923);

(l) To prohibit the use of waste or used oil or other material which is contaminated or mixed with dioxin or any other hazardous waste, other than a waste identified solely on the basis of ignitability, for dust suppression or road treatment;

(m) To regulate, monitor, and control air emissions at hazardous waste treatment, storage, and disposal facilities including but not limited to open tanks, surface impoundments, and landfills as may be necessary to protect human health and the environment; and

(n) To exclude a waste generated at a particular facility from being regulated as a hazardous waste.

(2) The cabinet shall have the authority to promulgate any regulations necessary to carry out the provisions of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in this Act;

(1) "Underground storage tank" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. Such term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility (including gathering lines) regulated under the natural gas pipeline safety act of 1968, (49 U.S.C. App. 1671, et seq.), the hazardous liquid pipeline safety act of 1979 (49 U.S.C. App. 2001, et seq.), or which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the natural gas pipeline safety act of 1968 or the hazardous liquid pipeline safety act of 1979;

(e) Surface impoundment pit, pond, or lagoon;

(f) Storm water or waste water collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

(2) "Regulated substance" means any substance defined in section 101(14) of the comprehensive environmental response, compensation, and liability act of 1980, but not including any substance regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees fahrenheit and 14.7 pounds per square inch absolute).

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Owners of any undergound storage tank, currently existing, or taken out of operation after January 1, 1974, shall notify the cabinet of the existence of such tanks and a description of the tank and its use in accordance with regulations promulgated by the cabinet.

(2) The cabinet shall regulate underground storage tanks by requiring minimum construction and performance standards, leak detection, record keeping, reporting releases, corrective actions, closure, financial responsibility, and any other requirement deemed necessary by the cabinet to protect the public health and environment. In promulgating regulations to carry out this section the cabinet may distinguish between types, classes, and ages of underground storage tanks.

Section 8. The regulations promulgated hereunder pursuant to the authority granted by this Act shall be no more stringent than the federal requirements.

The Committee Amendment No. 1 SB 101 is as follows:

Amend printed copy of SB 101:

On page 9, line 7, by deleting after the words "*Hazardous constituent*" the following: all language on lines 7, 8, 9 and 10; and by inserting the following: "*shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended*".

The Committee Amendment No. 2 to SB 101 is as follows:

Amend printed copy of SB 101:

on page 28, after line 4, by inserting the following:

"Section 8. KRS 224.876 is amended to read as follows:

(1) The general assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes, including disposal, treatment, recycling, storage, and transportation. The intent of the general assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management and to leave the primary burden and responsibility for hazardous waste management on private industry; and further to finance assistance and coordination by imposing assessments on the generators of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with hazardous waste generation.

(2) The natural resources and environmental protection cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances as defined in KRS 224.877 into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Provide adequate testing, planning, contracting for removal, and cleanup of abandoned hazardous waste sites in all situations and to the extent that responsible parties are economically or otherwise unavailable to properly address the problem when the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section.

(5) It is the expressed purpose of this section to accomplish effective hazardous waste management that results in a reduction of the generation of hazardous wastes within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste management to those industries whose products are reasonably related to the production of hazardous waste.

(6) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste management assessment to be determined pursuant to this section according to the quantity by volume of hazardous waste generated, except that generators of "special wastes" and retailers who generate waste oil shall be exempt from said assessment. The assessment shall be reported and paid to the revenue cabinet on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a report or return in such form as the revenue cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the

amount of the assessment to be levied upon said business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that the reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal monies are available to carry out the duties imposed by subsection (3) of this section the assessment shall cease to be levied and collected until such time as federal monies are no longer available to the Commonwealth for said purposes. The assessment shall be charged against generators of hazardous waste until June 30, 1986, and after such date no further hazardous waste management assessment shall be charged against generators.

(7) The assessment on generators shall be determined according to the following criteria for off-site treatment and disposal; the assessment for onsite treatment and disposal shall be one-half of the amount as would be assessed for off-site treatment and disposal except that onsite waste disposal facilities that incinerate, detoxify, solidify, neutralize or recycle hazardous waste shall be exempt unless the process involves the landfilling of hazardous waste.

(a) When the waste is destined for long-term containment without treatment, the assessment shall be two cents ($.02) per gallon initially, and shall increase by one cent ($.01) annually up to five cents ($.05) per gallon in 1983 and remain at five cents ($.05) thereafter if the waste is liquid, or two dollars and fifty cents ($2.50) per cubic yard if the waste is solid. Long-term containment includes disposal in a landfill, long-term storage, and other types of disposal specified by the cabinet.

(b) When a waste not suitable for a long-term containment is chemically treated, resulting in a material which is suitable for long-term containment but is still hazardous, the assessment shall be one cent ($.01) per gallon if the waste is a liquid or one dollar ($1) per cubic yard if the waste is solid.

(c) When the waste is destined for chemical treatment resulting in a material which is not hazardous as determined by testing criteria promulgated by the cabinet, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(d) When the waste is destined for destructive treatment by incineration or other means, the assessment shall be five mills ($.005) per gallon if the waste is liquid or fifty cents ($.50) per cubic yard if the waste is solid.

(8) If any generator fails or refuses to file a return or furnish any information requested in writing by the cabinet, the revenue cabinet may, from any information in its possession, make an estimate and issue an assessment against such generator and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(9) If any generator fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the revenue cabinet, then, unless it is shown to the satisfaction of the revenue cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the revenue cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(10) If the assessment imposed by this chapter, whether assessed by the revenue cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the revenue cabinet.

(11) There is hereby created within the state treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The revenue cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the state treasury shall be deposited in the hazardous waste management fund. When the state treasurer certifies to the cabinet that the balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the state treasurer certifies to the revenue cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000).

(12) Upon request of the secretary, monies accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, monies from the fund shall not be used when federal monies are available to carry out said

duties except when immediate action is required to protect public health or the environment in which case the cabinet shall actively pursue reimbursement of the fund by any available federal monies.

(13) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet."; and

on page 28, line 5, by renumbering "Section 8" as "Section 9".

SB 130, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) There is established a special fund to be known as the "bond pool fund" which shall be administratively assigned to the cabinet and which shall be administered in accordance with the terms of this Act.

(2) The fund shall consist of all monies collected pursuant to Section 6 of this Act, and all interest earned thereon.

(3) Monies in the fund shall be held in an interest-bearing account, and shall be used as follows, and for no other purpose:

(a) To reclaim, in the event of forfeiture, permit areas covered by the bond pool fund;

(b) To compensate the cabinet for costs of administering the bond pool fund;

(c) To fund audits and actuarial studies required under the provisions of Section 3 of this Act; and

(d) To cover all operating expenses and any necessary legal expenses of the bond pool commission;

(4) Monies contained in the bond pool fund shall be deemed a trust and agency account and shall not lapse.

(5) The bond pool fund shall be exempt from the requirements applicable to insurers under KRS Chapter 304.

SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a bond pool commission which shall consist of seven (7) members. One (1) member shall be the chairman of the small coal operators advisory council as established pursuant to KRS 350.260. The other six (6) members of the commission shall be appointed by the governor as follows:

(a) One (1) member of the commission shall be a member, other than chairman, of the small coal operators advisory council;

(b) One (1) of the members shall be an operator of surface coal mining operations producing one hundred thousand (100,000) or fewer tons of coal per year;

(c) One (1) of the members shall be an operator of surface coal mining operations producing two hundred thousand (200,000) or fewer tons of coal per year;

(d) One (1) member shall be an operator of surface coal mining operations producing more than two hundred thousand (200,000) tons of coal per year;

(e) One (1) member shall be a certified public accountant; and

(f) One (1) member shall be the secretary of the cabinet or his designee.

(2) (a) The chairman of the small coal operators advisory council shall serve on the commission for so long as he is chairman of the council. The governor shall initially appoint the other six (6) members as follows: two (2)

members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years, beginning September 1, 1986. Subsequent appointments shall be made by the governor for terms of four (4) years. Members may serve successive terms if reappointed; and

(b) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term by the governor.

(3) The commission shall adopt bylaws by which it shall elect a chairman and vice-chairman and establish procedures for conduct of meetings.

(4) The official domicile of the commission shall be Franklin County. All actions of the commission shall be considered to occur in Franklin County.

(5) The commission shall meet no less than once a month during the first year beginning September 1, 1986. Commencing with the second year, the commission shall meet not less than once every three (3) months. Four (4) members of the commission shall constitute a quorum at any meeting.

(6) Each commission member, except the cabinet representative, shall receive fifty dollars ($50) per diem for each meeting attended. Except for the cabinet representative, members of the commission shall also be reimbursed for actual and necessary expenses directly related to meetings of the commission.

(7) If a member of the commission fails to attend four (4) consecutive meetings, the position shall be considered to be vacated, and the governor after receiving notice of the vacancy from the commission shall immediately appoint a qualified person to serve the remainder of the term.

(8) Any member of the commission having any direct or indirect financial interest or any other conflict of interest with respect to a permittee applying for membership in the bond pool, a bond pool member applying for a rating revision, or a bond pool member whose membership is being evaluated or revoked, shall not participate in any discussion or vote concerning membership or rating of that permittee or member.

(9) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the commission, the bond pool administrator, or their agents or employes for any action taken in the performance of their powers and duties under this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The bond pool commission shall:

(1) Review, in accordance with the applicable regulations of the cabinet, all applications for membership in the bond pool and assign a rating to each applicant for membership. The commission shall deny membership to any applicant who fails to satisfy the eligibility criteria set forth in Section 5 of this Act;

(2) Review all applications by bond pool members and recommendations by the bond pool administrator for revision of an assigned rating. Such review shall include evaluation of the bond pool member's performance of reclamation requirements as set forth in KRS Chapter 350 and the regulations promulgated pursuant thereto and consideration of the member's payment of fees and penalties assessed pursuant to Section 6 of this Act;

(3) Notify bond pool members of suspension or reinstatement of the tonnage fee required by Section 6(2) of this Act;

(4) Revoke or reinstate memberships in the bond pool and notify any member of the bond pool whose membership is revoked or reinstated;

(5) Employ, in accordance with KRS 45.700, a certified public accountant to perform an audit of the bond pool fund for each of the first two (2) years after the effective date of this Act. After the initial two (2) years, an audit shall be made no less than biennially. Audit results shall be reported to the bond pool commission and to the governor;

(6) Employ, in accordance with KRS 45.700, a qualified actuary to perform an actuarial study no less than every three (3) years;

(7) Authorize expenditures from the bond pool necessary to carry out the purposes of this Act, including the procurement of legal services for the commission; and

(8) Report to the governor no later than December 31 of each year as to the financial status of the bond pool.

SECTION 4. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the cabinet shall appoint a cabinet employe to serve as bond pool administrator.

(2) The bond pool administrator shall:

(a) Collect and deposit into the bond pool fund all membership fees and tonnage fees submitted by bond pool members;

(b) Assess penalties against members for late payment of tonnage fees;

(c) Compile information about applicants and members for use by the commission in assigning or revising ratings;

(d) Monitor members' reporting and payment of tonnage fees and compliance with laws and regulations of the cabinet and, where appropriate, recommend to the commission that it downgrade a member's rating or revoke a person's membership;

(e) Pay monies out of the bond pool fund as authorized by the bond pool commission;

(f) At each meeting, report to the commission concerning the status of the bond pool and activities of the bond pool administrator; and

(g) Perform such other administrative functions as are necessary to carry out the purposes of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an alternative bonding program to be known as the "bond pool." Any permittee of a surface coal mining operation located in Kentucky who meets the criteria set forth in this section and in regulations promulgated by the cabinet shall be eligible to participate in the bond pool. Participation in the pool shall be voluntary.

(2) Except as provided in this Act, membership in the bond pool and compliance with the requirements of this Act shall satisfy the requirement to post bond in accordance with KRS 350.060(14).

(3) An application fee shall be charged, not to exceed one hundred dollars ($100). The application fee may be applied to the membership fee set forth in Section 6(1) of this Act.

(4) Except as provided in subsection (5) of this section, every permit held by a member of the bond pool shall be included in the pool, except for portions of permits disturbed prior to the member's admission into the pool, to which the provisions of Section 8(4) of this Act shall apply.

(5) No two-acre-or-less operation as defined in KRS 350.060(15) and no acreage on which is located a coal preparation plant, tipple, or loading facility shall be eligible for bond coverage by the bond pool fund.

(6) The bond pool fund shall not assume any part of a member's responsibility for damage due to subsidence which occurs in connection with underground mining or auger mining.

(7) An applicant shall be eligible for membership in the bond pool only if the bond pool commission determines that the applicant is in good financial standing and fulfills the criteria of one (1) of the following ratings:

(a) An "A" rating shall be assigned to an applicant who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name, a permit issued by the cabinet to conduct surface coal mining operatons in Kentucky; and

2. Has exhibited an excellent compliance record as defined by the regulations of the cabinet;

(b) A "B" rating shall be assigned to any applicant who:

1. For a period of at least five (5) of the seven (7) years immediately preceding the application for membership in the pool, has held, under the same permittee name, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the regulations of the cabinet;

(c) A "C" rating shall be assigned to any applicant who:

1. For a period of at least three (3) of the five (5) years immediately preceding the application for membership in the pool, has held, under the same permittee name, a permit to conduct surface coal mining operations in Kentucky; and

2. Has exhibited an acceptable compliance record as defined by the regulations of the cabinet.

(8) Upon request of any member, not to exceed once per year, the commission may upgrade the member's rating. The commission may downgrade the rating of any member at any time upon the recommendation of the bond pool administrator. Any such revision shall be made in accordance with the criteria set forth in this section. When a member's rating is downgraded, the commission may increase the permit-specific bond already posted in accordance with Section 8 of this Act.

(9) The cabinet shall promulgate regulations establishing methods and criteria for determining if an applicant is in good financial standing. The cabinet shall also promulgate such regulations for determining if an applicant has an excellent or acceptable compliance record, which may include, but shall not be limited to:

(a) Number and seriousness of violations for which the applicant has been cited;

(b) Whether the applicant has abated cited violations in a timely fashion;

(c) Whether the applicant has timely paid any penalties assessed against it;

(d) Whether a surety which posted bond to cover a permit area of the applicant has had to perform reclamation to avoid bond forfeiture; and

(e) Whether the applicant has received timely bond releases.

(10) For purposes of determining whether an applicant has an excellent or acceptable compliance record, the commission shall examine the compliance records of all persons who own or control, are owned or controlled by, or are under common ownership or control with the applicant.

(11) An applicant's experience pursuant to a two-acre-or-less permit as defined in KRS 350.060(15) shall not be considered in the ratings assignment except as provided in subsection (12) of this section.

(12) No application for membership in the bond pool shall be approved by the commission if it is determined that the applicant, or any person who owns or controls, is owned or controlled by, or is under common ownership or control with the applicant, is not eligible for a permit under the provisions of KRS 350.085, 350.093, or 350.130.

(13) Memberships granted by the commission and ratings assigned by the commission shall not be transferrable from one (1) permittee to another.

SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) (a) Each applicant, prior to admission into the bond pool, shall pay a membership fee as follows:

1. One thousand dollars ($1,000) for "A" rated members;

2. Two thousand dollars ($2,000) for "B" rated members; and

3. Two thousand five hundred dollars ($2,500) for "C" rated members;

(b) Any permittee who files an application for membership within sixty (60) days of the effective date of this Act shall have the membership fee reduced by five hundred dollars ($500); and

(c) Any applicant accepted for membership in the bond pool fund shall, within thirty (30) calendar days following written approval of the application by the bond pool commission, submit to the bond pool administrator the appropriate membership fee by certified check payable to the state treasurer. If the applicant fails to submit the membership fee within such time, the membership approval shall be voided.

(2) In addition to the membership fee assessed pursuant to subsection (1) of this section, each member, regardless of rating, shall pay to the fund eight (8) cents per ton of coal extracted by surface mining activities from the permit areas covered by the bond pool fund and one (1) cent per ton of coal extracted by underground mining methods from the permit areas covered by the bond pool fund. Reporting and payment of the tonnage fee shall be made in accordance with regulations promulgated by the cabinet. Production records of members shall be made available to the commission upon request. The cabinet shall establish penalties for late payment, which shall be assessed by the bond pool administrator. If any payment is more than thirty (30) days late, the provisions of Section 11 of this Act shall apply.

SECTION 7. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) When the fund reaches seven million dollars ($7,000,000) the commission shall notify in writing all bond pool members that the assessment of the tonnage fee shall be suspended for all bond pool members who have made thirty-six (36) or more monthly payments to the pool, until the fund decreases to five million dollars ($5,000,000). During such periods of suspension, members who have made less than thirty-six (36) monthly payments shall continue to pay the tonnage fee until they have paid for a full thirty-six (36) months.

(2) When the fund decreases to five million dollars ($5,000,000), the bond pool commission shall notify in writing all bond pool members that the tonnage fee requirement is reinstated. Payments of the tonnage fee shall begin and continue in accordance with cabinet regulations until the fund reaches seven million dollars ($7,000,000).

(3) If an actuarial study performed pursuant to Section 3 of this Act indicates that the minimum amount necessary to operate the fund exceeds one hundred five percent (105%) of the minimum amount established in this section, then the minimum and maximum amounts of the fund shall automatically be increased to conform to the actuarial study. The commission shall notify all pool members of the new range and shall reinstate the tonnage fee requirement if appropriate.

SECTION 8. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the membership fee and tonnage fee paid pursuant to Section 6 of this Act, bond pool members shall submit, for each permit to be covered by the bond pool, a permit-specific penal bond computed at the following rates for each acre or fraction thereof included in the proposed permit area:

(a) Five hundred dollars ($500) for "A" rated members;

(b) One thousand five hundred dollars ($1,500) for "B" rated members; and

(c) Two thousand dollars ($2,000) for "C" rated members.

(2) The permit-specific bond shall be increased by one thousand five hundred dollars ($1,500) for each acre of prime farmland to be covered by the bond pool.

(3) The permit-specific bond posted pursuant to this section shall be released in accordance with cabinet procedures for bond release upon successful completion of reclamation as required by KRS 350.093(4)(a) and regulations promulgated pursuant thereto.

(4) If, at the time of application to the bond pool, a permittee holds one (1) or more permits which have already been disturbed, such permits shall be transitioned into the bond pool in accordance with cabinet regulations. The area disturbed prior to admission to the bond pool shall not be covered by the pool, but shall

be bonded in accordance with KRS 350.060(14). The undisturbed area shall be bonded in accordance with this Act. The cabinet may recognize exceptions when appropriate and necessary.

SECTION 9. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) If an applicant for a permit chooses to post bond in accordance with this Act as an alternative to KRS 350.060(14), the permit shall not be issued until the applicant has been accepted as a member of the bond pool, has paid the applicable membership fee, and has submitted a permit-specific bond to cover the area which is the subject of the application.

(2) The cabinet shall not approve a permit transfer pursuant to KRS 350.135 until the transferee has either become a member of the bond pool based upon the transferee's own qualifications or submitted adequate bond in accordance with KRS 350.060(14).

(3) Membership in the bond pool shall not relieve the member of the obligation to comply with requirements of KRS Chapter 350 and regulations promulgated pursuant thereto, except those provisions relating to the method of posting bond.

SECTION 10. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) Bonds for permits covered by the bond pool shall be forfeited in accordance with KRS 350.130(1). The commission shall not be considered a party to any forfeiture action.

(2) Whenever the bond for a permit covered by the bond pool fund is forfeited by the cabinet, the cabinet shall first use any outstanding permit-specific performance bond posted pursuant to Section 8 of this Act. Any additional monies necessary to reclaim the permit area to the standards of KRS 350 shall be withdrawn from the bond pool fund to the extent that monies exist in the fund.

(3) Within seven (7) days following receipt of an official estimate of reclamation costs prepared by the cabinet, the bond pool administrator shall pay to the cabinet the estimated reclamation cost less the amount of the forfeited permit-specific bond, if any.

SECTION 11. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a member of the bond pool becomes more than thirty (30) days in arrears with any tonnage fee payment, the bond pool administrator shall notify the member that he has thirty (30) days to become current on his payments. If the member fails to comply within the thirty (30) days, the bond pool administrator shall recommend to the commission that it revoke his membership. The commission shall revoke the membership unless the member has paid all tonnage fees due.

(2) Whenever a member of the bond pool is issued an order for cessation and immediate compliance for failure to abate a violation of contemporaneous reclamation requirements, or whenever the secretary has issued a final order finding that the member has committed a pattern of violations pursuant to KRS 350.028(4) or KRS 350.465(3)(f), membership in the bond pool shall be automatically revoked without action on the part of the commission.

(3) Whenever a member of the bond pool is issued an order for cessation and immediate compliance for failure to abate any violation other than a violation of contemporaneous reclamation requirements, the bond pool administrator shall so inform the commission, and the commission may revoke the member's membership in the bond pool.

(4) Upon revocation of membership, the permittee shall be ordered by the cabinet to cease surface coal mining operations on all of his permits until he has obtained alternate bond coverage. In the meantime, the permittee shall comply with reclamation requirements established by cabinet regulations.

(5) The bond pool fund shall remain liable for reclamation of the portions of permits disturbed prior to revocation of a membership.

SECTION 12. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

No person shall be eligible to receive another permit or to begin another operation if, as a result of bond forfeiture, monies from the bond pool fund have been expended to reclaim such person's operation, unless the person has reimbursed the bond pool fund for monies expended.

Section 13. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for said violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section; provided, however, that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for such abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which such violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as a regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of such method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's office of general counsel, or upon the secretary's request, by the attorney general. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the state treasury, except those monies collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in a trust and agency account, entitled the abandoned mine land enhancement fund, for the purposes set forth in KRS 355.595. *Five hundred thousand dollars ($500,000) of the monies existing in the fund on September 1, 1986, shall be allocated to the bond pool fund established pursuant to Section 1 of this Act. If the total amount in the bond pool fund is less than one million five hundred thousand dollars ($1,500,000) on January 1, 1988, an additional two hundred fifty thousand dollars ($250,000) of the abandoned mine land enhancement fund may be loaned interest free to the bond pool fund. Repayment of the loan shall be made when the bond pool fund accumulates five million dollars ($5,000,000).* The *abandoned mine land enhancement* fund shall be administered by the secretary in accordance with accounting practices as established by the finance and administration cabinet.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the cabinet pursuant to KRS 350.029 or regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing such violations as hereinafter provided. Each day shall constitute a separate violation. However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) It shall be the duty of the cabinet's office of general counsel or, upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, against any operator or other person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet or by the attorney

general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto.

(4) Any person who shall knowingly and willfully violate any of the provisions of this chapter, except as provided in subsection (5) of this chapter or any determination or order promulgated pursuant to the sections of this chapter which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which such violation occurs may constitute a separate offense.

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the cabinet pursuant to KRS 350.029 or regulations promulgated pursuant thereto, with the intent to violate such laws shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who shall willfully resist, prevent, impede, or interfere with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) Whenever a corporate permittee violates any provision of this chapter or regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50).

The Committee on State Government reported HB 172 with Committee Substitute attached thereto, HB 192 with Committee Amendment attached thereto, HB 419 with Committee Substitute and Committee Amendments attached thereto, HB 456 with Committee Amendment attached thereto, HB 468, HB 495, HB 520, HB 556, HB 567, HB 632 with Committee Amendment attached thereto, HB 652, HB 704, HB 781, HB 815, HB 816, HR 86, SB 61, SB 159 with Committee Amendment attached thereto, and SB 245 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 172, AN ACT relating to voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

A county board of elections may request that the Kentucky state police patrol voting precincts in the county during the hours the polls are open on the day of any primary or regular or special election for the purpose of maintaining order and enforcing the election laws of the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) An application for a special ballot shall be delivered to each resident of a skilled nursing facility, nursing home or intermediate care facility, as defined by the regulations of the Kentucky health facilities and health services certificate of need and licensure board in the county, who is a registered voter qualified to receive such application and who requests an application of those delivering such applications. The application shall be completed immediately by each resident and handed to those delivering such forms. Each resident returning a completed application shall be furnished a special ballot and two (2) official envelopes for returning the ballot. Each resident shall be instructed to complete the ballot immediately, place it in the official envelopes, and then present it to facility officials to be mailed within twenty-four (24) hours.

(2) Delivery shall be made not more than fourteen (14) nor fewer than seven (7) days prior to any primary or regular election. Such delivery shall be made by two (2) persons who shall be designated by the county board of elections and who shall be members of two (2) different political parties. Such persons may include the county clerk or other members of the county board of elections. No person who is a candidate in the election for which applications and ballots are delivered shall deliver such documents, nor shall any person other than those provided for by this subsection assist in the distribution of the applications and documents or accompany those persons distributing such documents.

(3) The county clerk or his designee shall take to each facility a list of those residents to whom an application has been furnished and shall compile a list at each facility of those residents to whom an application or an application and a special ballot are furnished. The county clerk shall not furnish duplicate documents to any resident.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for a special ballot. Such application shall state that the emergency condition occurred within the seven (7) day period and must be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or dependent children of the voter. If the voter has no spouse, parents or dependent children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue a special ballot.

SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Special ballots cast, as provided by Sections 2 and 3 of this Act and by KRS 117.075, and special, or absentee ballots, cast as provided by KRS 117.085 shall all be tabulated in the same manner, as shall be provided by this chapter.

Section 5. KRS 117.075 is amended to read as follows:

[~~(1)~~] Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail or in person his verified statement that his inability to appear is due to age, infirmity, or illness, and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot[~~,~~] and envelopes, and the voter shall cast his vote in the same manner as provided for the *casting of absentee ballots* [~~absent voter~~] in KRS 117.087. *Such ballot shall be returned by the voter to the county clerk by mail.*

[~~(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.~~

~~(3) In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for an absentee ballot. Such application shall state that the emergency condition occurred within the seven (7) day period and must be notarized. The application form shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. If the voter has no spouse, parents or dependent children, the application form shall be restricted to the use of the voter or the voter's brother, sister, niece or nephew. Upon receipt of the application and verification the county clerk shall issue an absentee ballot.~~]

Section 6. KRS 117.085 is amended to read as follows:

(1) *All requests for an application for a special, or absentee, ballot; all applications for an absentee ballot; and all absentee ballots shall be transmitted only by mail or in person as specifically provided by this section. The county clerk shall provide, but only by the method provided by this section, an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application. Application for an absentee ballot shall be made as follows:*

(a) Any qualified voter in any county who *shall* [~~will~~] be absent from the *adjoining forty-eight (48) states* [~~county~~] on any election day or any person incarcerated in jail *who* [~~that~~] has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special, *or absentee,* ballot. *All requests for an application for an absentee ballot, all applications for an absentee ballot, and delivery of all absentee ballots made subsequent to this paragraph shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to the voter who appears in person to request such application, or shall mail such application to a voter who requests such application either by mail or through a personal appearance or mail request of a designee as provided in subsection (2) of this section. All absentee ballots for which application is made pursuant to the provisions of this paragraph and which application shall be received by the county clerk prior to the printing of such ballots shall be mailed to the voter within three (3) days of the receipt of such ballots, and such applications as shall be received by the county clerk subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request.*

(b) Any qualified voter in any county who shall be absent from the county but within the adjoining forty-eight (48) states on any election day and who shall be in the county at any time not more than fourteen (14) days nor fewer than seven (7) days before the election during normal business hours of the office of the county clerk shall during such time, if he so desires to vote by absentee ballot, appear in person before the county clerk or appoint a designee as provided in subsection (2) of this section, to appear in person during such time to request an application for an absentee ballot. The county clerk shall immediately hand the application to the voter who requests such application in person. The clerk shall mail the application to a voter for whom such application is requested by a designee. If the voter appears in person to obtain the application, he shall immediately complete and return the application to the county clerk. If an application for an absentee ballot is mailed to the voter at the request of a designee as provided in this paragraph, the voter shall personally return the completed application to the county clerk during the time specified above in this paragraph. The clerk shall, immediately upon return of the completed application by the voter, hand to the voter an absentee ballot. The voter shall then either complete the ballot immediately, place it in the special envelopes and hand it to the county clerk, or complete the ballot at a later time and return the ballot by mail.

(c) Any qualified voter in any county who shall be absent from the county but within the adjourning forty-eight (48) states and who shall not be in the county at any time not more than fourteen (14) days nor fewer than seven (7) days before the election during normal business hours of the office of the county clerk, shall at any time, if he so desires to vote by absentee ballot, appear in person or request by mail or have his designee, as provided by subsection (2) of this section, appear in person before the county clerk or request by mail, an application for an absentee ballot. The county clerk shall mail the application to the voter, who shall then return the completed application to the clerk by mail. All absentee ballots for which application shall have been made pursuant to the provisions of this paragraph and for which application shall have been made prior to fourteen (14) days before the election shall be mailed to the voter by the county clerk fourteen (14) days before the election, or within the next three (3) days of such time. All absentee ballots for which application shall have been made pursuant to the provisions of this paragraph and for which application shall have been made fourteen (14) days or fewer prior to the election shall be mailed to the voter by the county clerk within three (3) days of the receipt of such application. The voter shall return the completed ballot by mail.

(d) [~~, except that such application shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. The clerk shall type the name of the absent voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of compliance with residency requirements for voting in said precinct, and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the penalty provided in KRS 117.995(4) shall be printed on the application.~~

~~(2)~~] Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may apply for an absentee ballot by means of the federal post card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(2) Application for an absentee ballot made subsequent to the provisions of subsection (1) of this section shall be restricted to the use of the voter or the spouse, parents or dependent children of the voter. The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct, statement of whether the voter shall be in the county at any time not more than fourteen (14) days nor fewer than seven (7) days before the election during normal business hours of the office of the county clerk, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (4) shall be printed on the application.

(3) [~~If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. Special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots. special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request.~~] The clerk shall cause the special, *or absentee,* ballot to be printed thirty (30) days prior to each primary or general election. The outer envelope shall bear the words "*Special or Absentee* [~~Absent Voter's~~] Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and precinct number in the upper left hand corner of the [~~absent voter's~~] outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application until thirty (30) days after the election.

(4) A list of persons to whom absentee ballots are *provided* [~~mailed~~] shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.

(5) Any person who has *received* [~~been mailed~~] an *absentee* [~~absent voter's~~] ballot but who shall be in his voting precinct on election day may cancel his *absentee* [~~absent~~] ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his absent ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 7. KRS 117.086 is amended to read as follows:

(1) The [~~absent~~] voter *utilizing a special, or absentee, ballot* shall mark his ballot, seal it in the inner envelope and then in the outer envelope and *return* [~~mail~~] it to the county clerk *as shall be provided by this chapter.* The [~~absent~~] voter shall sign the detachable flap and the outer envelope in order to validate the [~~absent~~] ballot. It shall be received by the clerk before 3:00 p.m. standard time on election day in order to be counted.

(2) The clerk shall deposit all of the returned ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central *special* [~~absentee~~] ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted.

(3) The clerk shall keep a list of all persons who return their voted [~~absentee~~] ballots, and send a copy of that list to the state board after election day. The county clerk and the secretary of state shall keep a record of the number of *special* [~~absentee~~] ballots cast in any election as a part of the official returns of the election.

Section 8. KRS 117.087 is amended to read as follows:

(1) The challenge of *a special* [~~an absent voter's~~] ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the *special* [~~absentee~~] ballots. The board may appoint a central *special* [~~absentee~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the *special* [~~absentee~~] ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of *special* [~~absent voters'~~] ballots. The board shall open the boxes containing *special* [~~absent voters'~~] ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the [~~absent~~] voter. All unsigned *special* [~~absentee~~] ballots shall be rejected automatically. The clerk shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order the clerk shall read aloud the name of the [~~absent~~] voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the clerk shall then remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of *a* [~~an absent~~] voter is read aloud by the clerk, the vote of such voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge thereto may be determined and the [~~absentee~~] vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the [~~absent~~] voter is prima facie entitled to vote. If the vote of *a* [~~an absent~~] voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the clerk shall write on the envelope the word "rejected."

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the *special* [~~absentee~~] ballots from the inner envelopes, count and record the *special* [~~absentee~~] ballot votes on a form provided by the state board.

(6) The county clerk shall retain the ballots, detachable flaps and the outer envelopes for thirty (30) days, at which time they shall be burned by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the *special* [~~absentee~~] ballot results after 6:00 p.m.

Section 9. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering *within one thousand (1,000) feet of the voting machine on the day of any primary or regular or special election. Electioneering may be conducted outside such one thousand (1,000) foot distance* [~~at the polling place on election day unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis electioneering and establishes the distance from the polling place where such electioneering may be permitted, but in no case shall electioneering be allowed within a fifty (50) foot perimeter of the voting machine~~]. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall maintain law and order within a *one thousand (1,000)* [~~fifty (50)~~] foot perimeter of the voting machine. Assistance may be requested of any law enforcement officer.

Section 10. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, *except that the voter's employer or agent of that employer or officer or agent of that voter's union shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary or regular or special election.* The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. Voting booth shall mean an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

Section 11. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. *Any* [~~An absentee~~] voter

utilizing a special, or absentee, ballot may write in a vote for any person whose name does not appear upon the [~~special~~] ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct such voter on how to cast a write-in vote.

(3) This provision does not apply to elections for president and vice-president of the United States where the vote is cast for presidential electors rather than the candidate, nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170.

Section 12. KRS 117.995 is amended to read as follows:

(1) Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(2) Any county clerk, member of the county board of elections or any election officer who willfully violates any of the provisions of this chapter, *including furnishing applications for special, or absentee, ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, and including failure to enforce the prohibition against electioneering established by KRS 117.235,* shall be confined in the penitentiary for not less than one (1) nor more than three (3) years.

(3) Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or special ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months.

(4) Any person who signs a name other than his own on an application for *a special, or* [~~an~~] absentee, ballot or on the verification form for *such* [~~an absentee~~] ballot, or any person who votes *such* [~~an absentee~~] ballot other than the one issued in his name, or any person who applies for *such* [~~an absentee~~] ballot for the use of anyone other than himself or *such person as shall be designated by the provisions of this chapter* [~~his spouse~~], or any person who makes a false statement on an application for *such* [~~an absentee~~] ballot shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

(5) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day after he has been duly notified of such provisions by the sheriff of the election precinct shall, *for each offense,* be fined not *less than one hundred dollars ($100) nor* more than *one thousand* [~~fifty~~] dollars *($1,000) or imprisoned in the county jail for not more than one (1) year, or both* [~~($50) for each offense~~].

Section 13. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) Any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day *he appears before the county clerk to request an application for an absentee ballot or prior to the day* of election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four (4) hours on the day *he appears before the clerk during normal business hours of the office of the clerk or on the day* of the election[~~,~~] between the time of opening and closing the polls. Such person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employe may absent himself. No person shall refuse an employe the privilege hereby conferred, or discharge or threaten to discharge an employe or subject an employe to a penalty, because of the exercise of the privilege.

The Committee Substitute to HB 172 is as follows:

HB 172, AN ACT relating to voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

A county board of elections may request that the Kentucky state police patrol voting precincts in the county during the hours the polls are open on the day of any primary or regular or special election for the purpose of maintaining order and enforcing the election laws of the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) An application for a special ballot shall be delivered to each resident of a skilled nursing facility, nursing home or intermediate care facility, as defined by the regulations of the Kentucky health facilities and health services certificate of need and licensure board in the county, who is a registered voter qualified to receive such application and who requests an application of those delivering such applications. The application shall be completed by each resident and handed to those delivering such forms. Each resident returning a completed application shall be mailed a special ballot and two (2) official envelopes for returning the ballot. Each resident shall be instructed to complete the ballot, place it in the official envelopes, and then mail the ballot within twenty-four (24) hours.

(2) Delivery of applications shall be made not more than fourteen (14) nor fewer than seven (7) days prior to any primary or regular election. Such delivery shall be made by two (2) persons who shall be designated by the county board of elections and who shall be members of two (2) different political parties. Such persons may include the county clerk or other members of the county board of elections. No person who is a candidate in the election for which applications are delivered shall deliver such applications, nor shall any person other than those provided for by this subsection assist in the distribution of the applications or accompany those persons distributing such applications.

(3) The county clerk or his designee shall take to each facility a list of those residents to whom an application has been furnished and shall compile a list at each facility of those residents to whom an application or an application and a special ballot are furnished. The county clerk shall not furnish duplicate applications to any resident.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for a special ballot. Such application shall state that the emergency condition occurred within the seven (7) day period and must be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or dependent children of the voter. If the voter has no spouse, parents or dependent children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue a special ballot.

SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Special ballots cast, as provided by Sections 2 and 3 of this Act and by KRS 117.075 and 117.085 shall all be tabulated in the same manner, as shall be provided by this chapter.

Section 5. KRS 117.075 is amended to read as follows:

[~~(1)~~] Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail or in person his verified statement that his inability to appear is due to age, infirmity, or illness, and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special ballot[~~,~~] and envelopes, and the voter shall cast his vote in *accordance with* [~~the same manner as provided for the absent voter in~~] KRS 117.087. *Such ballot shall be returned by the voter to the county clerk by mail.*

[~~(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.~~

~~(3) In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for an absentee ballot. Such application shall state that the emergency condition occurred within the seven (7) day period and must be notarized. The application form shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. If the voter has no spouse, parents or dependent children, the application form shall be restricted to the use of the voter or the voter's brother, sister, niece or nephew. Upon receipt of the application and verification the county clerk shall issue an absentee ballot.~~]

Section 6. KRS 117.085 is amended to read as follows:

(1) *All requests for an application for a special ballot and all applications for a special ballot shall be transmitted only by mail or in person as specifically provided by this section. The county clerk shall provide, but only by the method provided by this section, a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for a special ballot as provided in this section and who is properly registered as stated in his application. Application for a special ballot shall be made as follows:*

(a) Any qualified voter in any county who *shall* [~~will~~] be absent from the county on any election day or any person incarcerated in jail *who* [~~that~~] has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. *All requests for an application for a special ballot and all applications for a special ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a special ballot to the voter who appears in person to request such application, or shall mail such application to a voter who requests such application by mail. Such application shall be restricted to use of the voter or the spouse, parents or dependent children of the voter.*

(b) [~~, except that such application shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. The clerk shall type the name of the absent voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of compliance with residency requirements for voting in said precinct, and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the penalty provided in KRS 117.995(4) shall be printed on the application.~~

~~(2)~~] Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may apply for an absentee ballot by means of the federal post card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (4) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. Special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots. special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request. The clerk shall cause the special ballot to be printed thirty (30) days prior to each primary or general election. The outer envelope shall bear the words "*Special* [~~Absent Voter's~~] Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and

precinct number in the upper left hand corner of the [~~absent voter's~~] outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application until thirty (30) days after the election.

(4) A list of persons to whom *special* [~~absentee~~] ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.

(5) Any person who has been mailed *a special* [~~an absent voter's~~] ballot but who shall be in his voting precinct on election day may cancel his *special* [~~absent~~] ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his *special* [~~absent~~] ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent *special* [~~absentee~~] ballots, and the voter may vote in the precinct in which he is properly registered.

Section 7. KRS 117.086 is amended to read as follows:

(1) The [~~absent~~] voter *utilizing a special ballot* shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk *as shall be provided by this chapter*. The [~~absent~~] voter shall sign the detachable flap and the outer envelope in order to validate the [~~absent~~] ballot. It shall be received by the clerk before 3:00 p.m. standard time on election day in order to be counted.

(2) The clerk shall deposit all of the returned ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central *special* [~~absentee~~] ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted.

(3) The clerk shall keep a list of all persons who return their voted [~~absentee~~] ballots, and send a copy of that list to the state board after election day. The county clerk and the secretary of state shall keep a record of the number of *special* [~~absentee~~] ballots cast in any election as a part of the official returns of the election.

Section 8. KRS 117.087 is amended to read as follows:

(1) The challenge of *a special* [~~an absent voter's~~] ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the *special* [~~absentee~~] ballots. The board may appoint a central *special* [~~absentee~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the *special* [~~absentee~~] ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of *special* [~~absent voters'~~] ballots. The board shall open the boxes containing *special* [~~absent voters'~~] ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the [~~absent~~] voter. All unsigned *special* [~~absentee~~] ballots shall be rejected automatically. The clerk shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order the clerk shall read aloud the name of the [~~absent~~] voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the clerk shall then remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of *a* [~~an absent~~] voter is read aloud by the clerk, the vote of such voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge thereto may be determined and the [~~absentee~~] vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the [~~absent~~] voter is prima facie

entitled to vote. If the vote of *a* [~~an absent~~] voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the clerk shall write on the envelope the word "rejected."

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the *special* [~~absentee~~] ballots from the inner envelopes, count and record the *special* [~~absentee~~] ballot votes on a form provided by the state board.

(6) The county clerk shall retain the ballots, detachable flaps and the outer envelopes for thirty (30) days, at which time they shall be burned by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the *special* [~~absentee~~] ballot results after 6:00 p.m.

Section 9. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering *within three hundred (300) feet of the entrance to a building which houses a voting machine on the day of any primary or regular or special election, except that* [~~at the polling place on election day unless~~] the fiscal court or legislative body of an urban-county government *may increase such distance to a maximum of one thousand (1,000) feet of the entrance to a building which houses a voting machine* [~~specifically authorizes by ordinance on a county wide basis electioneering and establishes the distance from the polling place where such electioneering may be permitted, but in no case shall electioneering be allowed within a fifty (50) foot perimeter of the voting machine~~]. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall maintain law and order within *the distance established by subsection (3) of this section within which electioneering is prohibited* [~~a fifty (50) foot perimeter of the voting machine~~]. Assistance may be requested of any law enforcement officer.

Section 10. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, *except that the voter's employer or agent of that employer or officer or agent of that voter's union shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary or regular or special election*. The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the disabled or blind voter as he directs. Voting booth shall mean an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a

record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

Section 11. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. *Any* [~~An absentee~~] voter *utilizing a special ballot* may write in a vote for any person whose name does not appear upon the [~~special~~] ballot, by writing the name of his choice under the office.

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct such voter on how to cast a write-in vote.

(3) This provision does not apply to elections for president and vice-president of the United States where the vote is cast for presidential electors rather than the candidate, nor does it apply to elections for municipal offices conducted pursuant to KRS 83A.170.

Section 12. KRS 117.995 is amended to read as follows:

(1) Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(2) Any county clerk, member of the county board of elections or any election officer who willfully violates any of the provisions of this chapter, *including furnishing applications for special ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, and including failure to enforce the prohibition against electioneering established by KRS 117.235,* shall be confined in the penitentiary for not less than one (1) nor more than three (3) years.

(3) Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or special ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months.

(4) Any person who signs a name other than his own on an application for *a special* [~~an absentee~~] ballot or on the verification form for *such* [~~an absentee~~] ballot, or any person who votes *a special* [~~an absentee~~] ballot other than the one issued in his name, or any person who applies for *such* [~~an absentee~~] ballot for the use of anyone other than himself or *such person as shall be designated by the provisions of this chapter* [~~his spouse~~], or any person who makes a false statement on an application for *a special* [~~an absentee~~] ballot shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

(5) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day after he has been duly notified of such provisions by the sheriff of the election precinct shall, *for each offense,* be fined not *less than one hundred dollars ($100) nor* more than *one thousand* [~~fifty~~] dollars *($1,000) or imprisoned in the county jail for not more than one (1) year, or both* [~~($50) for each offense~~].

Section 13. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened at 6:00 a.m., prevailing time, and remain open continuously until 6:00 p.m., prevailing time. Any voter who is waiting in line at the polls to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided however, that no vote shall be cast after 7:00 p.m. No voter who arrives at the polls after 6:00 p.m., prevailing time, shall be allowed to cast his vote.

(2) Any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day *he appears before the county clerk to request an application for a special ballot or prior to the day* of election, be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of four (4) hours on the day *he appears before the clerk during normal business hours of the office of the clerk or on the day* of the election[~~,~~] between the time of opening and closing the polls. Such person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employe may absent himself. No person shall refuse an employe the privilege hereby conferred, or discharge or threaten to discharge an employe or subject an employe to a penalty, because of the exercise of the privilege.

HB 192, AN ACT relating to filing dates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions *and certificates* of nomination for candidates *for city* [~~to~~] offices, *for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts* [~~which are prohibited from utilizing a primary~~] shall be filed with the county clerk not less than seventy (70) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice-president of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and KRS 118.325, shall be filed as required with the secretary of state or county clerk not less than seventy (70) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to seventy (70) days before the general election, shall be filed by such petitions not later than seventy (70) days prior to the general election.

(6) *Except as otherwise provided in this section,* petitions of nomination shallbe filed as required with the secretary of state or county clerk not less than ninety (90) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than seventy (70) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than seventy (70) days prior to the date fixed by law for the election of such electors.

The Committee Amendment No. 1 to HB 192 is as follows:

Amend printed copy of HB 192:

On page 1, line 8, after "offices," by inserting "*where the city has not, by ordinance, provided for nonpartisan elections pursuant to KRS 83A.170,*"

HB 419, AN ACT relating to service credit in the Kentucky Retirement Systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month such contributions are deducted or picked up during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions, or such contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(c) An employe on educational leave, approved by the appointing authority, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during such period of leave. If the employe elects to retain membership in the system, he shall receive service credit by having employe contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employe and employer contributions paid or picked up during the period of educational leave shall be refunded and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Any employe eligible for retirement, as prescribed in KRS 61.559, or any employe upon completion of at least one (1) year of service following the completion of any period of educational leave approved by the appointing authority shall receive service credit for any period of approved educational leave granted to him while he was a member of the system if:

(a) He has not been credited with such service credit under KRS 61.543; and

(b) He pays employe contributions, equal to the employe contributions that he would have paid had such contributions been deducted or picked up under this chapter during his period of approved educational leave, based on his creditable compensation at the time he was granted such leave, plus interest determined by the board.

(2) The payment by the member under subsection (1)(b) of this section shall not be picked up by the employer as described in KRS 61.560(4). The payment shall be deposited to the individual member's account. The remaining cost of the service credit shall be paid by the state from funds appropriated specifically for such purposes and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the board shall not accept employe payments until such time as funds are available in the account.

(3) In lieu of the payment authorized by subsections (1) and (2) of this section, an employe who is qualified under subsection (1) of this section to purchase service credit may receive credit for any period of approved educational leave by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). The delayed contribution payment shall be based upon the creditable compensation of the member immediately preceding the educational leave period. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

The Committee Substitute to HB 419 is as follows:

HB 419, AN ACT relating to service credit in the Kentucky Retirement Systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. After August 1, 1982, employe contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month such contributions are deducted or picked up during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe or picked up by the employer while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions, or such contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(c) An employe on educational leave, approved by the appointing authority, who is receiving a salary of less

than seventy-five percent (75%) of full salary, may elect to retain membership in the system during such period of leave. If the employe elects to retain membership in the system, he shall receive service credit by having employe contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employe and employer contributions paid or picked up during the period of educational leave shall be refunded and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

The Committee Amendment No. 1 to the Committee Substitute to HB 419 is as follows:

Amend printed copy of Committee Substitute to HB 419:

On page 3, after line 17, by adding the following:

SECTION 3. A NEW SECTION OF KRS 61.510 to 61.705 IS CREATED TO READ AS FOLLOWS:

Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.650(4), by the employer, and shall be deposited to the individual member's account.

The Committee Amendment No. 2 to the Committee Substitute to HB 419 is as follows:

Amend printed copy of Committee Substitute to HB 419:

On page 3, line 2 by inserting after "*refunded*" the words "*to the contributor*".

HB 456, AN ACT relating to discounts for disabled persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, any person who has suffered the loss of an arm or arms, a leg or legs, or any combination thereof, or any person who is legally blind or deaf, or any person who has a severe heart or respiratory problem is considered permanently disabled.

(2) A Kentucky state park disabled persons discount program is hereby established within the department. The department shall discount lodging fifteen percent (15%) for Kentucky residents who are permanently disabled and issue identification cards as provided in subsection (3) of this section. This card shall be presented when requesting such a discount.

(3) Upon written request, the department shall issue a Kentucky state park disabled persons discount card within ten (10) working days. The written request shall be accompanied by proof of residency and a licensed physician's statement verifying that the applicant is permanently disabled.

The Committee Amendment No. 1 to HB 456 is as follows:

Amend printed copy of HB 456:

On page 1, line 5, by inserting after "thereof" the words ", *or the use thereof*".

HB 468, AN ACT confirming the establishment of the governor's financial policy council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) There is recognized as established the governor's financial policy council. The purpose of the council shall be to advise the governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of finance and administration cabinet, the secretary of the revenue cabinet, the state budget director, and four (4) at-large members, appointed by the governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business, financial management or public policy. The governor shall designate one (1) of the four (4) at-large members to serve as chairman of the council.

(3) The terms of the at-large members shall coincide with the elected term of the governor who appointed them. Vacancies in the at-large membership of the council shall be filled by appointment by the governor for the unexpired portion of the vacated member's term.

(4) The council shall meet at least annually and shall hold other meetings deemed necessary by a majority of the membership or when requested by the governor.

(5) The members of the governor's council shall serve without compensation for their services but shall be reimbursed, subject to the provisions of KRS 45.101 and state travel regulations, for all actual and necessary expenses incurred in the performance of their duties as members of the council.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

The governor's financial policy council shall perform the following duties and functions:

(1) Review the state revenue forecast and official revenue estimates;

(2) Review long-term expenditure patterns;

(3) Review federal economic, taxation, and budget policies and report to the governor regarding the impact of such policies on the state economy and upon the state's finances;

(4) Review state infrastructure and capital investment needs and advise the governor regarding needed changes and revisions;

(5) Review and make recommendations regarding economic issues as are deemed appropriate; and

(6) Provide other financial analyses as requested by the governor or the governor's office for policy and management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) The center for business and economic research within the college of business and economics at the University of Kentucky shall, with the cooperation of other state institutions and agencies, prepare an annual economic report and maintain adequate state economic data which is to be disseminated to the governor's financial planning council, state agencies, and other potential users of such information.

(2) The annual economic report and state economic data shall include, but are not limited to, analyses of economic data pertaining to employment, unemployment, wages, personal income, and other economic and financial data relevant to the Commonwealth. The financial support for any such studies shall be included in the budget of the University of Kentucky.

Section 4. The General Assembly hereby confirms Executive Order 85-190 which established the governor's financial planning council and abolished the council of economic advisors, created by KRS Chapter 147B.

Section 5. The following KRS sections are repealed:

147B.010 Establishment of Kentucky Council of Economic Advisors.

147B.015 Membership of council—Terms of office—Vacancies.

147B.020 Duties of council.

147B.025 Councils' annual report to Governor—Content.

147B.030 Office for research, college of business and economics to conduct studies for council—Executive director of council.

147B.035 Disbursement of funds by council—Compensation of members.

HB 495, AN ACT relating to medicaid services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.030 is amended to read as follows:

The cabinet for human resources shall consist of the following major organizational units which are hereby created:

(1) Office of the secretary.

(2) The office for policy and budget. The office for policy and budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The office for policy and budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050.

(3) The office of the counsel. The office of the counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The office of the counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The office of the counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The attorney general, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105.

(4) The office of the ombudsman. The office of the ombudsman shall provide a review of citizen complaints on services of the cabinet for human resources when such complaints cannot be resolved through normal administrative remedies. The office of the ombudsman shall be headed by an ombudsman who shall be appointed by the governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary.

(5) The office of administrative services. The office of administrative services shall be responsible for providing administrative support services within the cabinet for human resources. All fiscal, facility and information management functions of the cabinet shall be vested in the office of administrative services. The office of administrative services shall be headed by an executive director who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(6) The department for social insurance. The department for social insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social

insurance benefit programs not assigned to another department. The department for social insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The department for social insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the department for social insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(7) The department for medicaid services. The department for medicaid services shall serve as the single state agency in the Commonwealth to administer Title XIX of the federal social security act. The department for medicaid services shall be headed by a commissioner for medicaid services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for medicaid services shall exercise authority over the department for medicaid services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(8) The department for health services. The department for health services shall develop and operate all programs of the cabinet that provide health and mental health services and all programs for the prevention, detection, care, and treatment of physical and mental disability, illness, and disease. The department for health services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the department for health services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(9)[~~(8)~~] The department for social services. The department for social services shall develop and operate all social service programs of the cabinet. The department for social services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the department for social services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(10)[~~(9)~~] The department for employment services. The department for employment services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The department for employment services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the department for employment services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary.

(11)[~~(10)~~] The office of the inspector general. The office of the inspector general shall be responsible for: (a) the conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; (b) such licensing and regulatory functions as the secretary may delegate; and (c) the notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority. The office of the inspector general shall be headed by an inspector general who shall be appointed by the secretary with the approval of the governor. The inspector general shall be directly responsible to the secretary.

Section 2. KRS 216.583 is amended to read as follows:

The long-term care coordinating council shall be composed of the following members from within the cabinet: the commissioner of the department for health services; the commissioner of the department for social services; the commissioner of the department for social insurance; the inspector general; the director of the division for licensing and regulation; the director of the division for aging services; the *commissioner* [~~director~~] of the *department for medicaid services* [~~medical assistance program~~]; the general counsel; and the long-term care ombudsman.

Section 3. The general assembly hereby confirms executive order 85-967 to the extent it is not otherwise confirmed by this Act.

HB 520, AN ACT relating to the department of the treasury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act confirms the reorganization of the department of the treasury effected by Executive Order 84-T01. Such confirmation shall include the subdivision of the department into the following divisions:

(1) Division of general administration and support;

(2) Division of disbursement and accounting;

(3) Division of computer services; and

(4) Division of investments.

HB 556, AN ACT relating to affirmative action in governmental contracting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.560 is amended to read as follows:

As used in KRS 45.570 to 45.640, unless the context requires otherwise:

(1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employe.

(2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.

(3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employe or official which is authorized by law to purchase or contract for supplies, materials, services or equipment for the state.

(4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.

(5) "Cabinet" means the finance and administration cabinet.

(6) "Minority" means and includes only females or persons belonging to one of the following minority groups: blacks, hispanics, asians-pacific islanders, american indians, and alaskan natives, including eskimos and aleuts.

(7) "Minority contractor or subcontractor" means a business or firm in which fifty-one percent (51%) or more of the ownership is controlled by members of a minority group or minority groups.

Section 2. KRS 45.590 is amended to read as follows:

A contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or reporting requirements if:

(1) The contract or subcontract awarded is in the amount of *one hundred thousand dollars ($100,000)* [~~two hundred and fifty thousand dollars $250,000~~] or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;

(2) The contractor or subcontractor utilizes the services of fewer than *four (4)* [~~eight (8)~~] employes during the course of the contract;

(3) The contractor or subcontractor employs only family members or relatives;

(4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640.

Section 3. KRS 45.620 is amended to read as follows:

(1) If any contractor is found by the *cabinet* [~~department~~] to have engaged in an unlawful practice under this chapter during the course of performing under a contract or sub-contract covered under KRS 45.560 to 45.640, the *cabinet* [~~department~~] shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency *shall* [~~may~~] cancel or terminate the contract. *The contracting agency may declare such contractor eligible to bid on further contracts with that agency,* conditioned upon a program for future compliance approved by the contracting agency and the *cabinet* department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.

(3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. [~~For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.~~]

Section 4. This Act shall apply to contracts entered into on or after the effective date of this Act.

HB 567, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.045 is amended to read as follows:

(1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.

(2) (a) "Local government" means a county, city, and other special-purpose district, authority, or public corporation, except a school district, within the state, but which exercises less than statewide jurisdiction.

(b) "Governing body" means the board, commission, or other such body charged with exercising the legislative authority of a local government.

(c) "State local finance officer," as used in this chapter and other provisions of law, means the *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] or his agent designated in writing with the approval of the governor.

(d) "Chief financial officer" means the comptroller, treasurer, director of finance or other local government official charged with managing the fiscal affairs of a local government.

(e) "Bonds," as used anywhere in this chapter, means debt payable more than one (1) year after date of issue or incurrence, issued pursuant to the laws authorizing local government borrowing.

(3) Without first notifying the state local finance officer in writing, no bonds may be issued by or on behalf of any local government. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and such other information as the state local finance officer may require to provide a complete file on local government debt.

(4) The state local finance officer may provide technical and advisory assistance regarding the issuance of long-term debt to those local governments whose governing bodies request such assistance. Such assistance shall include, but need not be limited to, (a) advice on the marketing of bonds by local governments, (b) conduct of training courses in debt management for local financial officers, and (c) promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

Section 2. KRS 66.280 is amended to read as follows:

(1) Whenever used in KRS 66.300 to 66.390, unless the context requires otherwise:

(a) "Commission" means the county debt commission as hereinafter established;

(b) "State local finance officer" means the *commissioner of the department for local government* [~~secretary of the department of finance~~] or his agent designated in writing with the approval of the governor;

(c) "Fiscal court" means the county judge/executive and the justices of the peace or the county judge/executive and the commissioners of the county;

(d) "Funding bonds" or "funded indebtedness" means bonds issued to fund floating indebtedness, or reissues thereof;

(e) "Road and bridge bonds" means county road and bridge bonds issued under the authorization of section 157a of the constitution of Kentucky, or reissues thereof;

(f) "Refunding bonds" means bonds issued for the purpose of reissuing or renewing outstanding bonds.

(2) KRS 66.280 to 66.390 may be cited as the "county debt act."

Section 3. KRS 66.390 is amended to read as follows:

Ownership of obligations of Kentucky counties shall disqualify the *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] or any of his appointees from serving in any capacity incident to the administration of KRS 66.280 to 66.380, or KRS 68.220, 68.250, 68.270, 68.280, 68.310 or 68.320.

Section 4. KRS 66.990 is amended to read as follows:

(1) Any officer who wilfully fails to perform his duty under KRS 66.010 to 66.040 shall be deemed guilty of misfeasance in office, and shall be fined not more than one hundred dollars ($100).

(2) The *commissioner of the department for local government* [~~secretary of the executive department for finance~~] or any of his appointees who performs any act in violation of the provisions of KRS 66.390 shall be removed from office or employment and made ineligible for reappointment in the same or any similar capacity, and upon conviction shall be fined not more than five hundred dollars ($500) and imprisoned for not more than ninety (90) days, or both so fined and imprisoned.

(3) Any county or state officer who knowingly violates any of the provisions of KRS 66.280 to 66.390 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both so fined and imprisoned.

Section 5. KRS 42.455 is amended to read as follows:

(1) There is established within the *department for local government* [~~finance and administration cabinet~~] a local government economic assistance program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following:

(a) Public safety, including law enforcement, fire protection, ambulance service and other related services;

(b) Environmental protection, including sewer disposal, sanitation, solid waste and other related programs;

(c) Public transportation, including mass transit systems, streets and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, aged, and handicapped;

(h) Financial administration and governmental management programs;

(i) Industrial and economic development; and

(j) Vocational education.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The *department for local government* [~~finance~~ ~~and~~ ~~administration~~ ~~cabinet~~] shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The *department for local government* [~~finance~~ ~~and~~ ~~administration~~ ~~cabinet~~] shall assure that public hearings equivalent to those required for the expenditure of federal general revenue sharing funds are held on the expenditure of funds received under KRS 42.450 to 42.495. The *department* [~~cabinet~~] shall also submit an annual report to the governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the transportation cabinet shall publish and furnish to the *department for local government* [~~finance~~ ~~and~~ ~~administration~~ ~~cabinet~~] a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of such highways, roads and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads and streets shall file with the transportation cabinet such information and at such intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The revenue cabinet shall make available to the transportation cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) above. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; in the event the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 6. KRS 42.460 is amended to read as follows:

Any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report will include a certification that said funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the *department for local government* [~~finance and administration cabinet~~] within eighteen (18) months after the end of the fiscal year.

Section 7. KRS 42.480 is amended to read as follows:

(1) On or before July 1, 1981, and each year thereafter, the *commissioner of the department for local government* [~~secretary, finance and administration cabinet~~], shall provide the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year 1981-82, and each year thereafter.

(2) On or before the fifteenth (15th) of the first month of a quarter, the *commissioner of the department for local government* [~~secretary, finance and administration cabinet~~], shall cause to be remitted to the legislative bodies of the local governments eligible for funds under the provisions of KRS 42.450 to 42.495, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 8. KRS 46.010 is amended to read as follows:

(1) The *department for local government* [~~executive department for finance and administration~~] shall prescribe and keep in operation a uniform system of accounting and reporting on the receipt, use and handling of all public funds, other than taxes, due and payable to the state from county, district and other local officers and agencies.

(2) The system so adopted shall require each county treasurer, and each county officer who receives or disburses state funds, to keep an accurate account of receipts and disbursements, showing a daily balance of receipts and disbursements.

(3) The system shall require all county officers handling state funds, other than taxes, to make an annual report to the *department for local government* [~~executive department for finance and administration~~], showing receipts and disbursements, and to make such other financial statements as the *department for local government* [~~executive department for finance and administration~~] requires.

(4) The *department for local government* [~~executive department for finance and administration~~], subject to the approval of the governor, may from time to time change the system, or any book, report, form or record provided for by the system, whenever in its opinion a change is necessary in order to conform to existing conditions.

Section 9. KRS 46.020 is amended to read as follows:

The *department for local government* [~~executive department for finance and administration~~] shall prepare, and shall cause to be printed and paid for in the same manner as other books, blanks and records for counties and county officers, all books, blanks and records necessary for the system of uniform accounting established under KRS 46.010. The department shall deliver to each county, district or other local officer charged with the duty of collecting, disbursing or handling state funds such of the books, blanks and records as are necessary for that officer. Each county, district or other local officer receiving such books, blanks or records shall use them in the performance of his duties with reference to the handling and disbursing of state funds. Any of such books, blanks or records used by state officers or employes shall be printed and paid for in the same manner as other state printing.

Section 10. KRS 46.990 is amended to read as follows:

(1) Any county or district officer authorized by law to make collections of funds for the state who fails or refuses to pay over to the state the funds so collected at the time he is required by law to report such collections to any state department shall be required to pay a penalty of ten per cent (10%) on all funds not so paid.

(2) Any officer who fails or neglects to perform any duty required of him by subsection (1) of KRS 46.030 shall be fined not less than fifty (50) nor more than one hundred dollars ($100) for each offense.

(3) Any officer who fails to use any book, blank or record required to be used under KRS 46.020, or who wilfully refuses to make any report required by the *department for local government* [~~executive department for finance and administration~~] under the provisions of KRS 46.010 or 46.020, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) for each offense.

Section 11. KRS 91A.050 is amended to read as follows:

The *department for local government* [~~finance and administration cabinet~~] shall make available to all cities assistance in meeting the requirements of KRS 91A.010 to 91A.060, including the preparation and dissemination of model systems for accounting and budgeting, and other technical materials.

Section 12. KRS 179.410 is amended to read as follows:

The *department for local government* [~~finance and administration cabinet~~] shall allocate the sum appropriated by the general assembly from the funds arising under the provisions of KRS 177.320(2), for the construction, reconstruction, improvement, and maintenance of county roads and bridges in accordance with the provisions of KRS 177.360(1).

Section 13. KRS 179.415 is amended to read as follows:

(1) On and after the fiscal year beginning July 1, 1980 and each fiscal year thereafter, the department *for local government* [~~of finance~~] shall pay to each county its pro rata share of any funds appropriated and any unexpended balance of funds appropriated for construction, reconstruction, improvement, and maintenance of county roads and bridges. During each fiscal year, the department [~~of finance~~] shall make quarterly payments to each such county of the funds allocated pursuant to KRS 177.369.

(2) The expenditure of any money received by the county pursuant to the provisions of subsection (1) of this section shall be made solely for the purpose of construction, reconstruction, improvement, and maintenance of county roads and bridges.

(3) Any county which has received any money pursuant to the provisions of subsection (1) of this section shall retain all records of the expenditure of such money for a period of five (5) years and said records shall be subject to audit by the department *for local government* [~~of finance~~] for said period of time in order to determine the proper expenditure of said money for the purpose required by KRS 179.410.

Section 14. KRS 64.050 is amended to read as follows:

(1) When the term of any county clerk in counties of seventy-five thousand (75,000) population or over expires, or he dies or resigns, or is removed from office, he or his personal representative, trustee or committee, as the case may be, shall at once deliver to his successor in office all accounts, claims and fees due him in his official capacity. The successor shall have such fees, claims and accounts collected, or the *department for local government* [~~finance and administration cabinet~~] may, in its discretion, when said accounts, fees and claims are so delivered to the successor, appoint a person to collect them. If a collector is appointed, the successor shall at once, or when demanded by the collector, deliver to him all accounts, fees and claims uncollected. The successor or collector, as the case may be, shall, every sixty (60) days after receiving such accounts, fees and claims, report to the *department for local government* [~~finance and administration cabinet~~], under oath, the amount collected thereon, and at the same time pay to the *department for local government* [~~finance and administration cabinet~~] the amount so collected, and shall continue to so report for three (3) years, unless the accounts, fees and claims are sooner collected.

(2) The *department for local government* [~~finance and administration cabinet~~] shall, upon each payment, draw a warrant on the state treasurer in favor of the person collecting, for an amount equal to twenty percent (20%) of the amount so paid in, which shall be the full compensation allowed for such collection.

(3) If the amount paid to any such clerk during his term or incumbency was not sufficient to pay the salaries and office expenses of the clerk, the *department for local government* [~~finance and administration cabinet~~] shall, out of the money collected and paid in as provided in subsection (1) of this section, pay to the clerk, or to the person entitled to receive the same, an amount sufficient to supply the deficit due for salaries and expenses, not exceeding seventy-five percent (75%) of the amount of fees accrued during his official term and which have been collected and paid to the *department for local government* [~~finance and administration cabinet~~].

Section 15. KRS 64.055 is amended to read as follows:

(1) The salaries of circuit clerks, payable out of the state treasury per annum, subject to the minimum provided by subsection (2) and to the calculation provided by subsection (3) of this section, shall be:

Population of County	Annual Salary
0—4,999	$11,000
5,000—9,999	14,000
10,000—14,999	17,000
15,000—19,999	19,000
20,000—29,999	20,000
30,000—39,999	21,000
40,000—49,999	21,500
50,000—99,999	22,000
100,000—499,999	22,500
500,000 and up	25,000

(2) The annual compensation payable to each circuit clerk beginning on July 1, 1980 shall be $2,000 in excess of the annual compensation payable as of June 30, 1980; the annual compensation payable to each circuit clerk beginning on July 1, 1982, shall be two thousand dollars ($2,000) in excess of the annual compensation then otherwise payable including the amount calculated as the increase or decrease as provided by subsection (3) of this section.

(3) In order to equate or adjust the compensation of circuit clerks with the purchasing power of the dollar, the *department for local government* [~~finance and administration cabinet~~] shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the *department for local government* [~~finance and administration cabinet~~], the annual compensation of circuit clerks for fiscal year 1982 and each fiscal year thereafter shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a circuit clerk receive an annual increase exceeding six percent (6%) of salary.

For purposes of determining movement of circuit court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used.

1. The actual calendar year 1976 salary of the circuit court clerk, as certified by the administrative office of the courts from information supplied by the auditor of public accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky department of economic development. This adjusted figure will be the base to compare with the salary maximums outlined above.

2. Those clerks whose base, as determined in 1. above, does not reach the maximums outlined above, will be allowed yearly increases up to twenty percent (20%) of the base, not to exceed the maximums outlined above.

3. Those clerks whose base, as determined in 1. above, is equal to or greater than the maximums outlined above, will be allowed a one time ten percent (10%) adjustment to their base salary as determined in 1. above.

4. The initial population determination for compensation under this section shall be based on the 1970 federal census or the "final" issue of "Current Population Reports, 1974" issued by the United States Bureau of the Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census.

5. The annual salary for 1978 for each circuit court clerk shall be no less than seventy-five percent (75%) of the maximum amount permitted for each population category.

Section 16. KRS 64.070 is amended to read as follows:

(1) (a) Except as provided in KRS 441.540, an officer conveying a prisoner to the penitentiary shall be paid out of the state treasury the rate per mile paid state employes for official travel in privately owned vehicles, as established by regulation of the finance and administration cabinet, to be calculated by the nearest traveled route, and shall be paid all actual necessary expenses for feeding, lodging and transporting the prisoner.

(b) Upon the production of the receipt of the warden of the penitentiary for the delivery of a prisoner, and a complete verified account of all expenses incurred, giving the names of the guards employed and distance traveled, the *department for local government* [~~finance and administration cabinet~~] shall audit the account of the officer for conveying the prisoner and if found correct draw a warrant for its payment.

(2) (a) For conveying a prisoner charged with a felony from one (1) county to another, an officer shall receive the same mileage and expenses allowed for conveying a prisoner to the penitentiary, to be paid out of the state treasury except as provided in KRS 441.530.

(b) Upon the production of the receipt of the jailer of the county to which the prisoner is transferred, and a complete verified account of all expenses incurred, giving the names of the guards employed and the distance traveled, the *department for local government* [~~finance and administration cabinet~~] shall audit the account of the officer for conveying the prisoner and if found correct shall draw a warrant for its payment.

(3) (a) For arresting a person charged with a misdemeanor upon a warrant issued from another county, and conveying the person to the county jail of the county from which the warrant issued, an officer shall be paid out of the county treasury of such county the same mileage and expenses allowed for conveying a prisoner to the penitentiary.

(b) The officer shall present to the county judge/executive of the county from which the warrant issued a verified and itemized statement of his mileage and expenses and the county judge/executive shall direct the county treasurer to pay the same out of the county treasury.

(4) For conveying a prisoner charged with a felony to the jail of the county in which he was arrested an officer shall be paid out of the state treasury the rate per mile paid state employes for official travel in privately owned vehicles, as established by regulation of the finance and administration cabinet for each mile traveled in going and returning.

(5) The number of guards employed in conveying prisoners to the penitentiary or from one (1) county to another shall not exceed one (1) for every two (2) prisoners. Where only one (1) prisoner is conveyed no guard shall be employed, except that the circuit judge may appoint one (1) guard for each prisoner to the nearest railroad station.

Section 17. KRS 64.140 is amended to read as follows:

(1) Any sheriff may be entitled to receive an advancement to defray necessary official expenses and to apply to the payment of the salaries of himself and his deputies and assistants. The *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] shall, on the first day of each calendar month, determine the necessary amount that may be advanced to the sheriff, which amount shall not exceed one-twelfth (1/12) of the total fees collected by the sheriff for the preceding year and may be for a less amount, and in no event shall it exceed thirty thousand dollars ($30,000) per month. When approved by the *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~], a warrant shall be drawn on the state treasury in favor of the sheriff for such advancement. At the end of each calendar year the sum of such advancements shall be deducted from the part of the total of fees and commissions paid into the state treasury by the sheriff, pursuant to section 106 of the constitution, that is available for use for the payment of the salaries of the sheriff, his deputies and assistants, and his necessary office expenses.

(2) If the office of sheriff becomes vacant, the sums advanced under this section shall be charged against that part of the fees and the commissions of the office of the sheriff that have been, or shall be, paid into the state treasury during the calendar year in which the advancements were made, and that is available for payment of the salaries of the sheriff, his deputies and assistants, and necessary expenses of his office.

(3) If the total of fees and commissions paid into the state treasury by the sheriff for any calendar year is insufficient to match the amount of advancements made to him, he and his sureties shall be liable to the state for any excess of advancements over the total of fees and commissions paid into the state treasury.

Section 18. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of 75,000 or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court, and signed by the chief judge thereof. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the *department for local government* [~~finance and administration cabinet~~].

(3) Each officer shall, on the first day of each month, send to the *department for local government* [~~finance and administration cabinet~~] a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the *department for local government* [~~finance and administration cabinet~~] the amount so collected or received. The *department for local government* [~~finance and administration cabinet~~] may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the state treasurer upon the warrant of the *department for local government* [~~finance and administration cabinet~~] made payable to the officer. If seventy-five percent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the *department for local government* [~~finance and administration cabinet~~] to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the *department for local government* [~~finance and administration cabinet~~] by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and signed by the chief judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the *department for local government* [~~finance and administration cabinet~~].

Section 19. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the *department for local government* [~~finance and administration cabinet~~]. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid

to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15 and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the *department for local government* [~~finance and administration cabinet~~]. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the *department for local government* [~~finance and administration cabinet~~].

Section 20. KRS 64.480 is amended to read as follows:

(1) Effective, with respect to the offices of governor on December 11, 1979, and lieutenant governor on the fifth Tuesday following the regular November election in 1975 and with respect to the other offices named in this section, on the first Monday in January, 1976, the compensation of the following named officers, payable monthly out of the state treasury, shall be the sum per annum designated for the respective offices, as follows: governor, forty-five thousand dollars ($45,000) until December 11, 1981, then fifty thousand dollars ($50,000) until December 13, 1983, and then sixty thousand dollars ($60,000) until January 1, 1985; lieutenant governor, an amount sufficient, when added to any per diem received during sessions of the general assembly while serving in the capacity of president of the senate, to equal twenty-seven thousand nine hundred dollars ($27,900) per annum, plus any compensation received while acting in the place of the governor; attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the Supreme Court of Kentucky elected in November, 1975, as clerk of the Court of Appeals, twenty-seven thousand nine hundred dollars ($27,900).

(2) In order to equate or adjust the compensation of the lieutenant governor, attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the Supreme Court of Kentucky with the purchasing power of the 1949 dollar, the *department for local government* [~~finance and administration cabinet~~] of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in subsection (2) hereof based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W. 2d 139 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.

(3) It is the intention of the legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when section 246 of the Kentucky Constitution was amended. Section 246 of the Constitution, as amended, established a monetary level of twelve thousand dollars ($12,000) per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current consumer price index.

(4) In order to adjust the compensation of the governor to reflect changes in the purchasing power of the dollar, the *department for local government* [~~finance and administration cabinet~~] shall compute by the second Friday in February of every year, beginning in 1985, an adjusted salary of the governor by multiplying sixty thousand dollars ($60,000) by the increase in the consumer price index during the period from January 1, 1984 to the beginning of the then-current calendar year. The actual compensation paid to the governor for the entire calendar year of 1985 and subsequent years shall be the adjusted salary.

Section 21. KRS 64.485 is amended to read as follows:

(1) The salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-nine

thousand dollars ($49,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be fifty thousand dollars ($50,000) per annum.

(2) The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be forty-seven thousand dollars ($47,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of forty-seven thousand five hundred dollars ($47,500).

(3) The salary of each circuit judge, payable out of the state treasury, shall be forty-five thousand dollars ($45,000) per annum.

(4) The salary of each district judge, payable out of the state treasury, shall be thirty-eight thousand five hundred dollars ($38,500) per annum.

(5) In order to equate or adjust the compensation of justices and judges of the court of justice with the purchasing power of the dollar, the *department for local government* [~~finance and administration cabinet~~] shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the *department for local government* [~~finance and administration cabinet~~], the annual salary of justices and judges of the court of justice for fiscal years 1982-1983 and 1983-1984 shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a justice or judge of the court of justice receive an annual increase exceeding five percent (5%) of salary.

Section 22. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, justices of the peace, county commissioners and coroners with the purchasing power of the dollar, the *department for local government* [~~finance and administration cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The *department for local government* [~~finance and administration cabinet~~] shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the *department for local government* [~~finance and administration cabinet~~], the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the *department for local government* [~~finance and administration cabinet~~].

Section 23. KRS 64.770 is amended to read as follows:

(1) The county officials' compensation board is hereby created and shall consist of the *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~], the state-local finance officer, the president of each of the state associations of county clerks, county judges/executive, county attorneys, justices of the peace and commissioners, sheriffs, jailers, and coroners, three (3) members of the general assembly appointed by the governor from a list of possible appointees submitted to him by the legislative research commission, and two (2) citizens of the Commonwealth appointed by the governor. The legislative members shall be appointed for terms of two (2) years, unless their legislative term expires prior to the expiration of their term on the board, in which case a vacancy shall exist. Citizen members shall be appointed for terms of four (4) years. The terms of the members representing the state associations shall be identical to the term of their office as president of the state association. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment.

(2) The *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] may, by written order filed with the chairman of the board, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the board in his absence. Such designation shall be deemed temporary and shall not affect the merit system or retirement rights of any person so designated. Other members may designate by proxy another person to serve in his stead. Such proxies shall clearly state the purpose and the length of time such proxies shall be in effect, but any such proxy shall be subject to immediate termination by the person initially authorizing the proxy. All proxies shall be filed with the chairman or secretary of the board.

(3) No salary or other compensation shall be allowed any member of the board, but each member or person

serving as a proxy may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(4) The board shall select one (1) of its members as chairman and another member as vice-chairman at its first regular meeting in each calendar year. The *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] or his designee shall be secretary of the board and the *commissioner of the department for local government* [~~secretary of the finance and administration cabinet~~] shall be responsible for administering the clerical functions of the board.

(5) The board may hold meetings once every three (3) months. Special meetings may be called by the chairman or by five (5) members of the board by delivery of a written notice to the office or residence of each member of the board at least ten (10) days in advance of the date of any special meeting. Five (5) members of the board shall constitute a quorum at any meeting. The board shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings.

(6) The board may employ and compensate such personnel and consultants as may be necessary to effectuate the provisions of KRS 64.780.

Section 24. KRS 64.990 is amended to read as follows:

(1) If any officer to whom KRS 64.050 applies, or his personal representative, trustee or committee, as the case may be, collects any fees, accounts or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims and accounts due to him in his official capacity, he, or his personal representative, committee or trustee, as the case may be, shall be fined not less than five hundred dollars ($500) for each offense.

(2) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the *department for local government* [~~finance and administration cabinet~~], as required by subsection (1) of KRS 64.050, he shall be fined not less than five hundred dollars ($500) for each offense. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years.

(3) If any deputy or personal representative issuing a fee bill pursuant to KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee bill, he shall be subject to the same penalties as an officer issuing such a fee bill.

((4) Every fee bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.

(5) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a high misdemeanor and fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.

(6) Any official who violates the provisions of KRS 64.820 to 64.850 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and upon conviction shall be removed from office.

Section 25. Executive Order 85-964 is confirmed to the extent it is not otherwise confirmed by this Act.

HB 632, AN ACT relating to the Kentucky Information Systems Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky information systems commission, hereinafter in this section and KRS 61.950 called the commission. It shall be the responsibility of the commission to coordinate, on a statewide level, *strategic planning for computerized information systems* [~~the computerization of public records generated~~] in state government.

(2) The commission shall be composed of *seventeen (17)* [~~sixteen (16)~~] members appointed by the governor. It is suggested that the commission consist of:

(a) *Three (3)* [~~Four (4)~~] officers of the finance and administration cabinet which shall include representatives of the [~~office for policy and management,~~] department of administration[~~,~~] *and* department of information systems[~~, and department of personnel~~];

(b) *One (1) representative of the governor's office for policy and management;*

(c) One (1) representative of the secretary of state appointed from a list of three (3) persons submitted by the secretary of state;

(d)[~~(c)~~] One (1) representative of the state treasurer appointed from a list of three (3) persons submitted by the state treasurer;

(e)[~~(d)~~] One (1) representative of the attorney general appointed from a list of three (3) attorneys submitted by the attorney general;

(f)[~~(e)~~] One (1) member appointed from a list of three (3) persons submitted by *the* chief justice of the supreme court;

(g)[~~(f)~~] One (1) representative of the auditor of public accounts appointed from a list of three (3) persons submitted by the auditor of public accounts;

(h)[~~(g)~~] One (1) representative of the department of libraries and archives appointed from a list of three (3) persons submitted by the state librarian;

(i) One (1) representative of the state university system appointed from a list of three (3) persons submitted by the council of higher education;

(j)[~~(h)~~] One (1) representative of the Kentucky association of counties appointed from a list of three (3) persons submitted by the president of the Kentucky association of counties;

(k)[~~(i)~~] One (1) representative of the Kentucky municipal league appointed from a list of three (3) persons submitted by the president of the Kentucky municipal league;

(l)[~~(j)~~] One (1) member of the press to be appointed from a list of three (3) persons submitted by the president of the Kentucky press association; and

(m)[~~(k)~~] Three (3) citizen members.

(3) Commission members shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(4) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(5) A majority of the members shall constitute a quorum for the transaction of business.

Section 2. KRS 61.950 is amended to read as follows:

(1) The commission shall meet at least four (4) times each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the commission, upon the call of its officers may hold meetings at such time as it deems necessary.

(2) The commission's duties shall include the following:

(a) *Formulation of a statewide electronic data processing plan from long range electronic data processing plans submitted by the three (3) branches and constitutional offices of government as the commission may require. This plan shall take into account projected* [~~On-going study of the system of management information and~~] data processing by the Commonwealth of Kentucky and all its departments, officers, *universities,* agencies and subdivisions, with particular emphasis on *coordination of strategic planning for computerized information systems and* state and local government information transfers;

(b) Recommending *procedures and legislation to improve the accessibility of machine readable public records* [~~present and future electronic data processing installations, budgets and applications~~]; *and*

(c) Recommending procedures and legislation to insure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy[~~;~~

~~(d) Compiling and updating a data directory listing of all data sets, data files and related software and storage devices used in the management and delivery of government services; and~~

~~(e) Developing and maintaining a program to insure the documentation, accession, maintenance, and storage of public records in machine readable form. Such program shall be undertaken in conjunction with the archives and records commission and the department of libraries and archives~~].

(3) *The commission shall have a permanent staff to assist it in the formulation of the statewide electronic data processing plan and to provide necessary support for its research activities. Permanent staff shall be knowledgeable in the management of information systems.* To accomplish the commission's work, all departments, divisions, *universities,* agencies and officers of the Commonwealth shall *furnish* [~~afford~~] the commission *necessary assistants,* [~~any requested~~] resources, information, records or advice *as it may require which is* pertinent to the subject matter being studied. [~~Necessary assistants to the commission shall be furnished by those cabinets, agencies, or offices represented by the membership.~~] The commission shall report its findings and recommendations to the legislative research commission on a quarterly basis. All reports of the commission shall be made readily available to the general public.

(4) Nothing in KRS 61.940 to this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the archives and records commission and the department for libraries and archives.

(5) The commission may promulgate necessary administrative regulations for the furtherance of this section.

The Committee Amendment No. 1 to HB 632 is as follows:

Amend printed copy of HB 632:

On page 1, line 10, after the word “of”, by deleting “*seventeen*”;

On page 1, line 11, before the word “members”, by deleting “*(17)*” and removing the brackets and strikethroughs from the word “sixteen (16)”;

On page 2, lines 19 through 21, by deleting “*(i) One (1) representative of the state university system appointed from a list of three (3) persons submitted by the council of higher education;*”

On page 2, line 22, by deleting “*(j)*”, and inserting in lieu thereof “*(i)*”;

On page 2, line 26, by deleting “*(k)*”, and inserting in lieu thereof “*(j)*”;

On page 3, line 4, by deleting “*(l)*”, and inserting in lieu thereof “*(k)*”;

On page 3, line 7, by deleting “*(m)*”, and inserting in lieu thereof “*(l)*”;

On page 4, line 6, before the word “agencies”, by deleting “*universities,*”;

On page 5, line 8, before the word “agencies”, by deleting “*universities,*”

On page 5, line 10, after the word “*necessary*”, by deleting “*assistants*” and inserting in lieu thereof “*assistance*”.

HB 652, AN ACT relating to job training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) The governor of the Commonwealth may elect to participate in the programs afforded pursuant to the federal Job Training Partnership Act (96 Stat 1322, U. S. Code Title 29, Section 1501, et. seq. as amended) (hereinafter referred to as the federal act) as adopted by the Congress of the United States.

(2) Upon election to participate pursuant to subsection (1) of this section, the secretary of the cabinet for human resources shall administer the programs authorized by the federal act in accordance with the provisions of Sections 2 and 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources, under the direction and control of the governor shall have the following authority:

(1) To provide such technical assistance as may at the discretion of the governor be necessary for the proper implementation and maintenance of programs afforded under the federal act;

(2) To monitor those entitles which by the terms of the agreement specified in section 103(b)(1) of the federal act were or may hereafter be selected to administer the job training plans developed and approved by the governor in accordance with the federal act and to monitor or to require monitoring of contractors including those of the said entities. As used herein, the term "entities" shall mean any private industry council or other entity performing the functions of administrative entity and grant recipient, either or both, as these terms are used in the federal act;

(3) To audit or cause audits to be made of the entities specified in subsection (2) of this section and to require auditing of their contractors in accordance with the requirements of the federal act and applicable regulations and as sound administration may require at the discretion of the secretary; and

(4) To perform such other duties as the governor may prescribe to assist the governor in carrying out the duties as prescribed by the federal act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Upon election to participate pursuant to Section 1 of this Act, the secretary of the cabinet for human resources, under the direction and control of the governor, shall have the following authority:

(1) To accept funds from the United States government allocated to the Commonwealth pursuant to the federal act. The secretary of the cabinet for human resources is empowered to comply with such conditions and execute such agreements as may be necessary, desirable or convenient in connection with the acceptance of such funds;

(2) To allocate funds received from the United States government to carry out the various programs authorized by and in accordance with the requirements of the federal act, applicable regulations of the United States department of labor and the policy of the cabinet;

(3) To adopt and enforce such policies and regulations consistent with the federal act as may be necessary to carry out the purposes of this chapter and the duties imposed upon the governor by the federal act to the end that job training programs afforded by the federal act be carried out efficiently and in conformity with the requirements of the federal law and that program abuse and misexpenditure of funds received from the United States be prevented;

(4) To make and enter into all contracts and agreements necessary or incidental to the performance of his duties under this act. Parties contracting with the cabinet as grantee agency shall be responsible for all audit exceptions;

(5) To employ such personnel as may be necessary to carry out the purposes of this chapter; and

(6) To provide such review at state levels of grievances, audit related issues, and such other matters as may be

required by the federal act and applicable regulations of the United States department of labor. Such reviews shall be conducted solely in accordance with the requirements of the federal act.

Decisions of the secretary of the cabinet for human resources pursuant hereto shall be reviewable solely in accordance with the terms of the federal act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed so as to conflict with the provisions relating to the administration and oversight of federal block grant monies as set forth in KRS 45.350 to 45.359, and KRS 48.160.

HB 704, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.100 is amended to read as follows:

(1) Procurements, not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction, five thousand dollars ($5,000) for equipment replacement parts purchased by the transportation cabinet, and one thousand dollars ($1,000) for all other purchases by state governmental bodies other than institutions of higher education, the department of parks, *the transportation cabinet* and the finance and administration cabinet, may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet. Procurements not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction and purchases of five thousand dollars ($5,000) by state institutions of higher education, the department of parks, *the transportation cabinet* and the finance and administration cabinet may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the general assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

HB 781, AN ACT relating to escheat.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.020 is amended to read as follows:

(1) If any property having a situs in this state has been devised or bequeathed to any person and is not claimed by that person or by his heirs, distributees or devisees within eight (8) years after the death of the testator, or if the owner of any property having a situs in this state dies without heirs or distributees entitled to it and without disposing of it by will, it shall vest in the state, subject to all legal and equitable demands. Also, any property abandoned by the owner, except a perfect title to a corporeal hereditament, shall vest in the state, subject to all legal and equitable demands. Any property that vests in the state under this section shall be liquidated, and the proceeds, less costs, fees and expenses incidental to all legal proceedings of the liquidation shall be paid to the department.

(2) In lieu of liquidation, custody of any property vesting in the state under this section that is determined to be of historic interest by the Kentucky historical society or the office of historic properties may, with the approval of the governor, be transferred to the Kentucky historical society or to the office of historic properties for display in the museum of the society or for display and use in other state-owned properties subject to the jurisdiction of the office of historic properties.

HB 815, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly confirms the reorganization of the department of education as affected by executive order 84-DOE-01 as follows:

Ratify and confirm that portion of executive order 84-DOE-01 that transfers the division of school food services from the office of local services to the office of resource management.

HB 816, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly confirms the reorganization of the office of education for exceptional children in the department of education affected by executive order 85-DOE-02 as follows:

(1) Ratify and confirm that portion of executive order 85-DOE-02 establishing the division of coordinated programs and transferring from the division of categorical programs interagency programs, special vocational programs, and parent outreach programs.

(2) Ratify and confirm that portion of executive order 85-DOE-02 establishing the division of special services and transferring from the division of categorical programs early childhood special education, arts for the handicapped and special projects.

(3) Ratify and confirm that portion of executive order 85-DOE-02 establishing the division of program development and transferring from the division of categorical programs and the division of supporting services program development responsibilities.

HR 86, A RESOLUTION urging the Transportation Cabinet to purchase Kentucky manufactured aluminum for use in the production of motor vehicle license plates.

WHEREAS, the sentiment of the House of Repreentatives in passing House Bill 315 is clearly for redesign of our current passenger registration plate to a more attractive design; and

WHEREAS, the fact that Kentuckians are already required to retain plates for five (5) years and House Bill 315, which calls for a new reflectorized plate, will cause a shift from the use of steel to aluminum; and

WHEREAS, Kentucky state government has a responsibility to promote and use products manufactured within Kentucky at every opportunity; and

WHEREAS, those individuals involved in procuring the materials need to be made aware that there are dozens of manufacturers in Kentucky producing aluminum products employing hundreds of Kentuckians; and

WHEREAS, the use of Kentucky produced aluminum in the manufacturing of license plates will enhance the quality of life of our Kentuckians who are employed in the manufacturing which ultimately receives the production contract;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet be urged to purchase aluminum to be used in Kentucky motor vehicle license plates from manufacturers of aluminum which are located in Kentucky.

Section 2. That a copy of this resolution be transmitted to the Governor of the Commonwealth of Kentucky, the Secretary of the Kentucky Transportation Cabinet and the Kentucky Commerce Cabinet.

SB 61, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the department for employment services within the cabinet for human resources affected by Executive Order 84-1013. Such confirmation shall include the creation or reaffirmation of the following offices and divisions within that department:

(1) Office of the commissioner;

(2) Division of job training;

(3) Division of administration and financial management;

(4) Division of job service and special programs;

(5) Division of unemployment insurance;

(6) Division of field services; and

(7) Division of veterans employment services.

SB 159, AN ACT relating to campaign debts of elected statewide officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds one hundred dollars ($100) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of fifty dollars ($50) received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) No candidate nor committee, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No person may contribute more than three thousand dollars ($3,000) to any one candidate in any one election.

(6) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

(7) No elected statewide official shall actively solicit contributions to retire a campaign debt during his term of office, nor shall such official accept contributions to retire his campaign debt during his term of office from any person receiving payment or compensation for services rendered pursuant to a contract with state government.

Section 2. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who wilfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS

121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who wilfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who wilfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that wilfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who wilfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who wilfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who wilfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who wilfully violates any provision of KRS 121.100 to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name;

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who wilfully violates any provision of KRS 121.100 to 121.200, or whose campaign treasurer wilfully violates any provision of KRS 121.100 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the attorney general, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.100 to 121.200.

(12) The commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) *Any officeholder who wilfully violates the provisions of KRS 121.150(7) shall be subject to removal from office by impeachment.*

(14) Prosecution for violation of any provision of KRS 121.100 to 121.200, shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(15)[~~(14)~~] Any person who wilfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(16)[~~(15)~~] Any corporation that wilfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(17)[~~(16)~~] Any person who wilfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

The Committee Amendment No. 1 to SB 159 is as follows:

Amend printed copy of SB 159:

On page 2, line 26, by deleting "*statewide*" and inserting in lieu thereof the word "*state*".

SB 245, AN ACT relating to reorganization of the office of Auditor of Public Accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The general assembly hereby confirms executive order SA-1-85 reorganizing the office of the state auditor of public accounts pursuant to KRS 12.028. Such confirmation shall include ratification of the plan issued on March 21, 1985 by which the former organizational structure of the office of the state auditor of public accounts was abolished and the office was reorganized into the following units: the division of departmental audits, the division of county audits, the division of special audits, the division for economy and efficiency, the office of legal and legislative services, and the office of management services.

The Committee on Appropriations and Revenue reported HB 262, with Committee Substitute attached thereto, and HB 398, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 262, AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the general fund for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, circuit court, district court, the administrative office of the courts, pretrial services, judicial boards and commissions, the state law library, judicial retirement, local facility fund and for services performed by the circuit clerks' offices, including both circuit and district court support:

1. Court of Justice	1986-87	1987-88
a. To the Court of Justice, for court operation and administration	$59,862,800	$63,150,600

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1986-87 and in fiscal year 1987-88 for all elected and non-elected court personnel.

	1986-87	1987-88
b. To the Court of Justice, for the local facility fund	$9,114,400	$9,988,000

Funds are included to provide for a one dollar per square foot minimum use allowance payment in respect to payments authorized by KRS Chapter 26A.

	1986-87	1987-88
Total Court of Justice	$68,977,200	$73,138,600
2. Judicial Form Retirement System	1986-87	1987-88
a. To the board of trustees of the judicial form retirement system, for funding and operation of the judicial retirement plan	$2,639,200	$2,660,500
Total—Judicial Branch	$71,616,400	$75,799,100

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Court of Justice for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for fiscal year July 1, 1987 and ending June 30, 1988, all receipts of the Court of Justice not otherwise disposed of by law, and any unexpended balance remaining in the Court of Justice's existing trust and agency accounts at the close of the fiscal years ending June 30, 1986 and June 30, 1987.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1986-87	1987-88
Court of Justice	$1,000	$1,000

PART III

FEDERAL FUNDS

There is appropriated to the Court of Justice for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for the fiscal year beginning July 1, 1987 and ending June 30, 1988, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Court of Justice except as otherwise specifically provided, for the use and benefit of the Court of Justice for the purposes for which its fund is authorized, and any unexpended balance remaining in the Court of Justice's existing federal accounts at the close of fiscal years ending June 30, 1986 and June 30, 1987. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Court of Justice receives monies in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1986-87	1987-88
Court of Justice	$5,000	$100

PART IV

BUDGET REDUCTION PLAN

In accordance with KRS 48.130, if the projected or actual general fund revenues are certified to be at least two and one-half percent (2 1/2%) but not more than five percent (5%) less than the revenue estimates, and in the event that there is insufficient unrestricted monies in the General Fund Surplus Account or in the budget reserve trust fund for the prorata share of all branches the general fund allotment shall be reduced as follows:

	1986-87	1987-88
1. Court of Justice		
a. Court of Justice, court operation, and administration	$1,496,500	$1,578,700
b. Court of Justice local facility fund	$227,800	$249,700
2. Judicial Form Retirement System	$65,900	$66,500
Total—Judicial Branch	$1,790,200	$1,894,900

PART V

SURPLUS EXPENDITURE PLAN

In accordance with KRS 48.140, if the projected or actual general fund revenues are certified to be up to two and one-half percent (2 1/2%) greater than the revenue estimates, the general fund allotment shall be increased as follows:

	1986-87	1987-88
1. Court of Justice		
a. Court of Justice, court operation and administration	$1,790,200	$1,894,900

Included in this appropriation is $650,000 in fiscal year 1986-87 and $613,000 in fiscal year 1987-88 for the capital purchase of data processing equipment.

	1986-87	1987-88
b. Court of Justice, local facility	$-0-	$-0-
2. Judicial Form Retirement System	$-0-	$-0-
Total—Judicial Branch	$1,790,200	$1,894,900

PART VI

GENERAL PROVISIONS

1. The director of the administrative office of the courts with the approval of the chief justice may expend any of the funds appropriated for court operation and administration in any lawful manner and for any legal purpose which the chief justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the general assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The chief justice shall cause the director of the administrative office of the courts to prepare a final budget document reflecting the 1986-88 biennial budget of the Court of Justice. A copy shall be provided to the legislative research commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1986 session of the general assembly.

The Committee Substitute to HB 262 is as follows:

HB 262, AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the general fund for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for the fiscal year beginning July 1, 1987 and ending June 30, 1988, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, circuit court, district court, the administrative office of the courts, pretrial services, judicial boards and commissions, the state law library, judicial retirement, local facility fund and for services performed by the circuit clerks' offices, including both circuit and district court support:

1. Court of Justice	1986-87	1987-88
a. To the Court of Justice, for court operation and administration	$59,006,400	$64,716,800

Included in the above appropriation are funds to provide a five percent (5%) salary adjustment in each fiscal year for all non-elected court personnel. Also included in the above appropriation are funds to provide a 3.5% salary adjustment each fiscal year for the justices and judges of the court, and circuit clerks. In the event enabling legislation is enacted by the 1986 General Assembly, $353,100 in fiscal year 1986-87 and $3,204,100 in fiscal year 1987-88 is included in the above appropriation for the implementation of the Juvenile Code.

	1986-87	1987-88
b. To the Court of Justice, for the local facility fund	$8,847,400	$9,684,200

	1986-87	1987-88
Total Court of Justice	$67,853,800	$74,401,000

	1986-87	1987-88
2. Judicial Form Retirement System		
a. To the board of trustees of the judicial form retirement system, for funding and operation of the judicial retirement plan	$2,188,400	$2,210,300

In the event enabling legislation is enacted by the 1986 General Assembly, $20,300 each fiscal year is included in the above appropriation to provide for a one-time five-percent (5%) cost-of-living adjustment for persons who retired prior to 1980. Also included in the above appropriation, in the event enabling legislation is enacted by the 1986 General Assembly, is $134,100 in fiscal year 1986-87 and $142,100 in fiscal year 1987-88 to provide for medical and health insurance benefits for retirees.

Total—Judicial Branch	$70,042,200	$76,611,300

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Court of Justice for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for fiscal year July 1, 1987 and ending June 30, 1988, all receipts of the Court of Justice not otherwise disposed of by law, and any unexpended balance remaining in the Court of Justice's existing trust and agency accounts at the close of the fiscal years ending June 30, 1986 and June 30, 1987.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1986-87	1987-88
Court of Justice	$1,000	$1,000

PART III

FEDERAL FUNDS

There is appropriated to the Court of Justice for the fiscal year beginning July 1, 1986 and ending June 30, 1987, and for the fiscal year beginning July 1, 1987 and ending June 30, 1988, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Court of Justice except as otherwise specifically provided, for the use and benefit of the Court of Justice for the purposes for which its fund is authorized, and any unexpended balance remaining in the Court of Justice's existing federal accounts at the close of fiscal years ending June 30, 1986 and June 30, 1987. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Court of Justice receives monies in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1986-87	1987-88
Court of Justice	$5,000	$100

PART IV

GENERAL PROVISIONS

1. The director of the administrative office of the courts with the approval of the chief justice may expend any of the funds appropriated for court operation and administration in any lawful manner and for any legal purpose which the chief justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the general assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The chief justice shall cause the director of the administrative office of the courts to prepare a final budget document reflecting the 1986-88 biennial budget of the Court of Justice. A copy shall be provided to the legislative research commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1986 session of the general assembly.

HB 398, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ending June 30, 1986, and, including any funds pursuant to KRS 48.700 as of June 30, 1986, for the fiscal year beginning July 1, 1986, and ending June 30, 1987, and, including any funds pursuant to KRS 48.700 as of June 30, 1987, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following sums, or so much thereof as may be necessary, for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Governor

1986-87	$2,677,800
1987-88	$2,993,400

Included in the above appropriation is $130,000 in fiscal year 1986-87 and $340,000 in fiscal year 1987-88 for the Governor's Office of Child Development. Also included in the above appropriation in each year of the biennium is $18,000 for the Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky as specified in KRS 64.710.

b. Secretary of the Cabinet

1986-87 .... $450,700

1987-88 .... $436,200

c. Governor's Office for Policy and Management

1986-87 .... $1,555,800

1987-88 .... $1,868,800

d. Governor's Office for Program Administration

1986-87 .... $329,100

1987-88 .... $354,500

e. State Planning Fund

1986-87 .... $750,000

1987-88 .... $750,000

The Governor is hereby authorized to expend funds for the improvement and advancement of governmental purposes and activities.

TOTAL—EXECUTIVE OFFICE OF THE GOVERNOR

1986-87 .... $5,763,400

1987-88 .... $6,402,900

2. LIEUTENANT GOVERNOR

1986-87 .... $496,400

1987-88 .... $503,400

Included in the above appropriation in each year of the biennium is $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Lieutenant Governor of Kentucky as specified in KRS 64.710.

3. SECRETARY OF STATE

a. General Operations

1985-86 .... $110,400

1986-87 .... $1,270,000

1987-88 .... $1,256,100

b. Restoration of Land Grant Books

1986-87 .... $44,000

1987-88 .... $44,000

TOTAL—SECRETARY OF STATE

1985-86 .... $110,400

1986-87 .... $1,314,000

1987-88 .... $1,300,100

4. BOARD OF ELECTIONS

1985-86 .... $145,200

1986-87 .... $1,187,000

1987-88 .... $1,238,000

Included in the above appropriation is $592,600 in fiscal year 1986-87 and $598,800 in fiscal year 1987-88 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.105). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 is hereby appropriated.

5. TREASURY

1986-87 .... $1,330,600

1987-88 .... $1,441,400

6. DEPARTMENT OF LAW

1985-86 .... $155,700

1986-87 .... $5,207,800

1987-88 .... $5,512,200

7. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorney

1986-87 .... $8,350,900

1987-88 .... $8,781,600

b. County Attorney

1986-87 .... $8,651,900

1987-88 .... $9,086,000

TOTAL—UNIFIED PROSECUTORIAL SYSTEM

1986-87 .... $17,002,800

1987-88 .... $17,867,600

8. AUDITOR OF PUBLIC ACCOUNTS

1986-87 .... $2,807,000

1987-88 .... $2,891,200

The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits.

No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

There is hereby appropriated to the Auditor of Public Accounts funds which are required in the auditing of federal disaster relief funds.

The Auditor shall maintain a record of all time and expenses for each audit or investigation.

Any additional expense incurred by the Auditor of Public Accounts for auditing federal funds, when such audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency, when such costs may be charged against federal funds. The Auditor of Public Accounts is hereby authorized to receive these federal funds in a separate account to be established for this purpose. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

9. DEPARTMENT OF AGRICULTURE

1986-87	$9,315,000
1987-88	$9,587,700

10. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87	$5,093,500
1987-88	$5,332,100

Included in the above appropriation is $152,500 in fiscal year 1986-87 and $152,500 in fiscal year 1987-88 for the Kentucky Early Warning System (KEWS) operation of which $10,000 each year is intended for the maintenance of radio equipment.

There is hereby appropriated to the Department funds which are required as a result of the Governor's call of the Kentucky National Guard to active duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Disaster and Emergency Services

1985-86	$2,500,000
1986-87	$2,253,300
1987-88	$2,331,000

The above appropriation of $2,500,000 in fiscal year 1985-86 is intended for the state's matching share of the Individual Family Grants awarded in connection with the 1984 flood disaster.

Included in the above appropriation is $240,300 in fiscal year 1986-87 and $240,300 in fiscal year 1987-88 for Kentucky Early Warning System (KEWS) operation.

Also, included in the above appropriation is $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 for emergency expenses by the Division of Disaster and Emergency Services for disasters and emergencies. These funds may only be expended at the recommendation of the Adjutant General to the Governor.

There is hereby appropriated to the Department funds required to match federal aid to which the state would be eligible in the event of a Presidentially-declared disaster or emergency.

TOTAL—DEPARTMENT OF MILITARY AFFAIRS

1985-86 . . . . $2,500,000

1986-87 . . . . $7,346,800

1987-88 . . . . $7,663,100

11. DEPARTMENT OF PERSONNEL

a. General Operations

1986-87 . . . . $4,378,900

1987-88 . . . . $4,510,300

b. Pay-for-Performance

1986-87 . . . . $2,000,000

1987-88 . . . . $2,000,000

It is the intent of the General Assembly that the above appropriations be matched with like amounts of non-General Fund revenues available to state agencies. However, no state agency shall be penalized in its ability to grant pay-for-performance increases to its eligible employees because of an inability to financially match the General Funds necessary to provide such payments.

TOTAL—DEPARTMENT OF PERSONNEL

1986-87 . . . . $6,378,900

1987-88 . . . . $6,510,300

12. PERSONNEL BOARD

1985-86 . . . . $49,900

1986-87 . . . . $329,100

1987-88 . . . . $339,600

13. DEPARTMENT FOR LOCAL GOVERNMENT

1986-87 . . . . $4,857,100

1987-88 . . . . $5,033,700

14. COUNTY COSTS	1986-87	1987-88
a. Base Court Revenue	$5,431,000	$5,431,000
b. Sheriffs' Fees	1,334,500	1,374,500
c. Jury Fund	3,856,200	3,971,900
d. Witnesses	116,100	119,600
e. Special Bailiffs	25,800	26,600
f. Board of Assessment Appeals	20,000	20,600

g. Fugitives from Justice	358,000	368,700
h. Sheriffs' Expense Allowance	432,000	432,000
i. Premium on Sheriffs' Bonds	526,800	542,600
j. County Clerks—Making Tax Bills	585,200	602,700

Funds required to pay county costs funded by the General Fund are hereby appropriated and additional funds may be allotted from the General Fund surplus account by the Secretary of the Finance and Administration Cabinet.

TOTAL—COUNTY COSTS

1986-87	$12,685,600
1987-88	$12,890,200

15. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

1986-87	$34,300,000
1987-88	$40,150,000

The above appropriations are based on the official estimate of the Secretary of Revenue for severance tax collections during the biennium, distributed in accordance with KRS 42.450 through 42.495. In the event actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 through 42.495.

b. Area Development Fund

1986-87	$2,910,000
1987-88	$2,910,000

Funds appropriated for the Area Development Fund shall be limited to these amounts.

c. Kentucky Center for the Arts

1986-87	$3,108,200
1987-88	$3,110,800

TOTAL—SPECIAL FUNDS

1986-87	$40,318,200
1987-88	$46,170,800

16. CAPITAL PLAZA

1986-87	$2,341,500
1987-88	$2,278,500

Included in the above appropriation is $1,789,600 in fiscal year 1986-87 and $1,753,800 in fiscal year 1987-88 which shall be used for debt service for the Capital Plaza.

17. GENERAL OBLIGATION BONDS

a. Park Bonds

1986-87	$560,000
1987-88	$565,000

b. Veterans Bonus Bonds

1986-87	$7,875,000
1987-88	$7,880,000

c. 1965 General Purpose Bonds

1986-87	$2,070,000
1987-88	$2,070,000

TOTAL—GENERAL OBLIGATION BONDS

1986-87	$10,505,000
1987-88	$10,515,000

18. FINANCIAL DISCLOSURE REVIEW COMMISSION

1985-86	$20,800
1986-87	$69,600
1987-88	$72,500

19. MISCELLANEOUS APPROPRIATIONS

a. Board of Claims Awards

1986-87	$500,000
1987-88	$500,000

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of such agencies.

b. Judgments

1986-87	$500,000
1987-88	$500,000

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45. Also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. However, in no event shall the total payments exceed the sum of $5,500,000 in any fiscal year.

c. Prior Year Claims

1986-87 . . . . $100,000

1987-88 . . . . $100,000

d. Unredeemed Checks Refunded

1986-87 . . . . $60,000

1987-88 . . . . $60,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

e. Blanket Employees Bonds

1986-87 . . . . $140,000

1987-88 . . . . $140,000

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

f. Frankfort Planning Commission

1986-87 . . . . $1,000

1987-88 . . . . $1,000

g. Frankfort Cemetery

1986-87 . . . . $2,500

1987-88 . . . . $2,500

h. Public Improvements

1986-87 . . . . $5,000

1987-88 . . . . $5,000

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

i. Police and Firemen—Life Insurance

1986-87 . . . . $50,000

1987-88 . . . . $50,000

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

j. Workers' Compensation

1986-87 . . . . $40,000

1987-88 . . . . $40,000

Fee officers in counties over 75,000 in population.

k. Master Commissioners—Employers Retirement

1986-87	$63,000
1987-88	$63,000

l. Master Commissioners—Social Security

1986-87	$100,000
1987-88	$100,000

m. Money Refunded

1986-87	$2,000
1987-88	$2,000

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet and the Attorney General.

TOTAL—MISCELLANEOUS APPROPRIATIONS

1986-87	$1,563,500
1987-88	$1,563,500

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are hereby appropriated, and any required expenditure over the above amounts is to be paid from the General Fund Surplus Account.

20. SCHOOL FACILITIES CONSTRUCTION COMMISSION

1985-86	$100,000
1986-87	$3,109,100
1987-88	$10,114,100

21. COMMISSION ON HUMAN RIGHTS

1986-87	$1,254,500
1987-88	$1,316,700

22. COMMISSION ON WOMEN

1986-87	$194,100
1987-88	$201,000

TOTAL—GOVERNMENT OPERATIONS

1985-86	$3,082,000
1986-87	$135,377,000
1987-88	$151,413,500

B. COMMERCE

23. OFFICE OF THE SECRETARY

1986-87	$29,480,000
1987-88	$31,665,900

Included in the above appropriation is $10,000,000 in fiscal year 1986-87 and $10,000,000 in fiscal year 1987-88 for debt service payments on the Economic Development Bond program for the previous $100 million authorization. Also included is $17,360,000 in fiscal year 1986-87 and $19,470,000 in fiscal year 1987-88 to pay the debt service for a new $165 million Economic Development Bond authorization that is to be issued during the biennium.

24. DEPARTMENT OF ECONOMIC DEVELOPMENT

1986-87	$3,562,800
1987-88	$3,708,500

25. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1986-87	$10,424,000
1987-88	$10,424,000

Included in the above appropriation is $5,424,000 in each fiscal year for debt service payments associated with the $50 million bond issuance for the Kentucky Development Finance Authority loan program.

26. DEPARTMENT OF THE ARTS

1986-87	$3,521,700
1987-88	$3,617,900

Included in the above appropriation is $150,000 in fiscal year 1986-87 and $150,000 in fiscal year 1987-88 for the Governor's Institute for the Arts. Also included in the above appropriation is $1,500,000 in each fiscal year for the Development and Challenge Grant programs to be administered by the Kentucky Arts Council.

Included in the above appropriation is $80,000 each fiscal year for Outdoor Drama Grants.

TOTAL—COMMERCE

1986-87	$46,988,500
1987-88	$49,416,300

C. CORRECTIONS

27. CORRECTIONS CABINET

a. Correction's Management

1985-86	$107,400
1986-87	$10,348,700
1987-88	$14,000,300

Included in the above appropriation for fiscal year 1985-86 is $80,500 for the expansion of the Parole Board from five to seven members. Included in the above appropriation is $3,885,300 in fiscal year 1986-87 and

$4,184,500 in fiscal year 1987-88 for continuing debt service for State Property and Buildings Commission Project 32 bonds. Included in the fiscal year 1986-87 appropriation is $2,687,500 and $5,860,000 in fiscal year 1987-88 for debt service to fund the new medium security correctional facility and the new dormitory at the Kentucky State Reformatory identified in Part V of this Act.

Also included in the above appropriation is $672,700 in fiscal year 1986-87 and $709,900 in fiscal year 1987-88 for the operation of the Parole Board.

b. Adult Institutions

1985-86	$75,500
1986-87	$53,843,900
1987-88	$57,424,300

c. Community Services and Local Facilities

1985-86	$327,600
1986-87	$17,443,200
1987-88	$20,193,900

Included in the above appropriation for fiscal year 1985-86 is $253,000 for the expansion of the Intensive Supervision program.

d. Local Jails Support

1986-87	$15,038,400
1987-88	$15,476,600

Included in the above appropriation is $927,000 in fiscal year 1986-87 and $954,800 in fiscal year 1987-88 for medical care contracts to be distributed, upon approval of the Corrections Cabinet, to counties by the formula for operational fund disbursement codified in KRS 441.206; $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 is provided, on a partial reimbursement basis, for medical claims in excess of $2,500.

It is the intent of the General Assembly that the $927,000 in fiscal year 1986-87 and $954,800 in fiscal year 1987-88 for medical contracts be maintained in an individual account specifically for medical contracts and that a county must be certified by the Corrections Cabinet in order to receive its pro rated share. In order to obtain certification, a county must submit a notarized statement to the Cabinet which states that it has, to the best of its ability, investigated and obtained the most feasible medical contract or contracts possible. A copy of the contract shall be appended to the letter requesting certification. Upon receipt of the letter requesting certification, the Corrections Cabinet shall review and if approvable, distribute the funds as appropriate. If the contract is not approvable, the Cabinet must respond in writing to the county of its decision and basis for objection. In no event shall the Cabinet release funds without giving proper certification. In no event shall monies be expended for medical services or supplies that are not provided through an approved contract.

It is the intention of the General Assembly that $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 be maintained in a separate account for catastrophic medical expenses. It is the intention of the General Assembly that any medical claim which exceeds $2,500 may be reimbursed for that amount in excess of $2,500. In no event shall this apply to expenses of an elective, as opposed to emergency, basis and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL—CORRECTIONS

1985-86	$510,500
1986-87	$96,674,200
1987-88	$107,095,100

D. EDUCATION AND HUMANITIES

28. DEPARTMENT OF EDUCATION

a. General Administration

1986-87	$14,323,200
1987-88	$16,128,400

Included in the above appropriation is $132,200 in fiscal year 1986-87 and $133,200 in fiscal year 1987-88 for debt service, and $2,413,900 in fiscal year 1986-87 and $2,486,300 in fiscal year 1987-88 for maintenance of facilities and building insurance costs. The amounts herein identified shall be expended for these purposes and no others, except as provided in this Act. Any surplus shall lapse to the General Fund. The above appropriation also includes $1,500,000 in fiscal year 1986-87 and $3,000,000 in fiscal year 1987-88 for an Educational Excellence Incentive Fund as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $2,500,000 in fiscal year 1986-87 and $2,500,000 in fiscal year 1987-88 for an Educational Innovation Incentive Fund as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

b. Local District Health and Life Insurance

1986-87	$43,889,100
1987-88	$47,694,300

Included in the above appropriation is $488,500 in fiscal year 1986-87 and $512,600 in fiscal year 1987-88 to provide life insurance to each full-time certified and non-certified employee of local boards of education. Also included in the above appropriation is $43,218,900 in fiscal year 1986-87 and $46,990,900 in fiscal year 1987-88 to purchase medical insurance for certified and non-certified full-time employees of local boards of education pursuant to applicable statutes and regulations. If the costs for life insurance or health insurance exceed the levels of appropriated funds, any unexpended School Foundation Program funds may be used to offset such expenditures, subject to the approval of the Secretary of the Finance and Administration Cabinet.

c. Education for Exceptional Children

1986-87	$9,665,000
1987-88	$9,955,000

Of the above appropriation, at least $3,037,300 in fiscal year 1986-87 and at least $3,128,400 in fiscal year 1987-88 is included for the Kentucky School for the Blind, and at least $4,802,500 in fiscal year 1986-87 and at least $4,946,600 in fiscal year 1987-88 is included for the Kentucky School for the Deaf.

Also included in this appropriation is $350,000 in each year of the 1986-88 biennium for debt service for the addition to the classroom building at the Kentucky School of the Blind.

d. School Foundation Program

1985-86	$6,000,000
1986-87	$979,323,500
1987-88	$1,058,970,300

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

Funds appropriated to the School Foundation Program shall be allotted to school districts in accordance with KRS 157.310 through 157.430 and 157A.090, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. If funds appropriated to the School Foundation Program are insufficient to provide the amount of money required under KRS 157.390(6), allotments to local school districts shall be reduced in accordance with KRS 157.430.

The amount to be included for the 1986-87 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	19,400	17,370	15,330	13,200	12,170
4-9 years	21,430	19,400	17,370	13,200	12,170
10-14 years	23,580	21,540	19,490	13,200	12,170
15 years & over	23,980	21,940	19,890	13,200	12,170

Beginning with the school year 1987-88, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	20,370	18,240	16,100	13,860	12,780
4-9 years	22,500	20,370	18,240	13,860	12,780
10-14 years	25,260	23,120	20,970	13,860	12,780
15-19 years	26,080	23,940	21,790	13,860	12,780
20 years & over	26,480	24,340	22,190	13,860	12,780

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the School Foundation Program allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(2) shall be reduced by an amount equal to the amount by which the district failed to meet salary requirements, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Revenue Cabinet. Said Cabinet shall then determine whether there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Revenue Cabinet shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1986-87 and 1987-88 in which the total amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for school foundation program teachers' instructional salaries in the preceding year, plus the additional amount for teachers' salaries received by the district under this appropriation for a 185 day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year in each local school district.

Local school district personnel who are employed beyond the regular school term of 185 days shall be so employed in accordance with the provisions of KRS 157.390(2)(a) and 702 KAR 1:025. Funding for these extended employment days shall not exceed $21,411,000 in fiscal year 1986-87 and $23,455,800 in fiscal year 1987-88.

The allotment of any school district classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

In fiscal year 1986-87, the allotments to school districts of basic classroom units for grades one (1) through three (3) shall be made on the basis of one for every twenty-three (23) pupils in average daily attendance and for grades four (4) through twelve (12) on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance. In fiscal year 1987-88, the allotments to school districts for grades one (1) through three (3) shall be made on the basis of one (1) for every twenty-two (22) pupils in average daily attendance; the allotments to school districts for grades four (4) through six (6) shall be made on the basis of one (1) every twenty-six (26) pupils in average daily attendance; and the allotments to school districts for grades seven (7) through twelve (12) shall be made on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1986-87	1987-88
Vocational Education	2,538	2,538
Exceptional Children	4,285	4,360

Provided, however, that if the budgeted units in any category of classroom units—Vocational Education, Exceptional Children, Kindergarten, classroom units for elementary and secondary schools, and units related to school administration—prove to be excessive, the surplus may be reallocated to any other category or categories by the Superintendent of Public Instruction, upon the approval of the State Board of Education and the Secretary of the Finance and Administration Cabinet.

Kindergarten units shall be allotted in fiscal year 1986-87 and fiscal year 1987-88 on the basis of one for every two classes with 25 pupils in average daily attendance in each class. The number of units allotted shall be based on end of year prior year average daily attendance including the percent of kindergarten increase in average daily attendance the first two months of the current year over the first two months of the previous school year.

Included in this appropriation is $6,700,000 in fiscal year 1986-87 and $7,000,000 in fiscal year 1987-88 for a kindergarten aide for each kindergarten unit allotted.

The allotments of basic classroom units shall be made on the average daily attendance (ADA) for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions, (a) an average daily attendance of nine and six-tenths (9.6) in fiscal year 1986-87 and in fiscal year 1987-88 shall be deducted for each vocational education unit allotted, and (b) an average daily attendance of seven and two-tenths (7.2) in fiscal year 1986-87 and in fiscal year 1987-88 shall be deducted for each exceptional children unit allotted.

The total number of administrative and special instructional services (ASIS) units allotted under KRS 157.360(7) shall be the sum of the total allotted number of basic units, kindergarten units, vocational units, and exceptional children units divided by nine.

The State Board of Education shall promulgate regulations upon the recommendation of the Superintendent of Public Instruction which shall cause ASIS units to be allocated with first priority given to funding units required for accreditation, and second priority given to adding units for classroom instruction. The third priority of funding shall be given to other needs for ASIS units in local school districts.

Allotments for ASIS classroom units pursuant to KRS 157.360(7) shall only be for those personnel who are qualified for their respective positions under applicable provisions of law and regulations and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses in the 1986-88 biennium shall be determined by multiplying the number of classroom units by: $4,890 in the 1986-87 school year and $5,110 in the 1987-88 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,800 in the 1986-87 school year and $1,800 in the 1987-88 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days in accordance with KRS 158.070, or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units.

Any undistributed balance in the Foundation Program fund at the end of the fiscal years 1986-87 and 1987-88 shall lapse to the General Fund except where provisions to the contrary are provided in this Act.

The total appropriation for the School Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, of the total appropriation to the Foundation Program is subject to Part VI, General Provisions, of this Act, and the provisions of KRS Chapter 48.

Included in this appropriation is $6,000,000 in fiscal year 1985-86, $84,451,500 in fiscal year 1986-87, and $86,805,000 in fiscal year 1987-88 for the costs of transporting pupils to and from school. Calculations of the allotments of pupil transportation funds to school districts shall be made in accordance with KRS 157.370 and 157A.090, except that the total of the funds allotted under KRS 157.390(5) shall not exceed $84,451,500 in fiscal year 1986-87 and $86,805,000 in fiscal year 1987-88 provided, however, that these sums may be increased by any excess funds appropriated for the School Foundation Program, but no such increases shall exceed the total transportation cost calculated in accordance with KRS 157.370 and 157A.090, subject to the approval of the Superintendent of Public Instruction and the Secretary of the Finance and Administration Cabinet, except where provisions to the contrary are stated in this Act.

In the event that the funds appropriated for pupil transportation in fiscal year 1986-87 and fiscal year 1987-88 are insufficient to provide allotments to local school districts in accordance with KRS 157.370 and 157A.090, notwithstanding KRS 157.430, the allotments of funds for pupil transportation only to local school districts shall be ratably reduced without reducing other allotments under this appropriation.

Included in the School Foundation Program appropriation is $2,022,900 in fiscal year 1986-87 and $2,083,600 in fiscal year 1987-88 for Vocational Transportation.

e. Power Equalization

1986-87	$69,706,300
1987-88	$96,278,300

Funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with KRS 157.545—157.580. In the event that funds appropriated for Power Equalization are insufficient to provide allotments to local school districts in accordance with KRS 157.545—157.580, the allotments to local school districts shall be ratably reduced.

f. Instruction

1986-87	$31,402,100
1987-88	$42,165,900

The above appropriation includes $14,327,200 in fiscal year 1986-87 and $14,333,800 fiscal year 1987-88 for a program of Essential Skills Remediation for Students.

The above appropriation also includes $2,500,000 in fiscal year 1986-87 and $2,600,000 in fiscal year 1987-88 for the Teacher Testing and Internship Program.

The above appropriation also includes $5,692,900 in fiscal year 1986-87 and $6,100,100 in fiscal year 1987-88 for the Gifted and Talented Program.

The above appropriation also includes $9,000,000 in fiscal year 1987-88 for the Effective Teacher/Evaluation Fund established by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $1,000,000 in fiscal year 1986-87 and $2,000,000 in fiscal year 1987-88 for a writing program in grades 7-10 as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $150,000 in fiscal year 1986-87 and $150,000 in fiscal year 1987-88 for teacher institutes as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for in-service teacher training improvements as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $550,000 in fiscal year 1986-87 and $550,000 in fiscal year 1987-88 for dropout prevention programs as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for a principal testing and internship program as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $1,100,000 in fiscal year 1986-87 and $1,175,000 in fiscal year 1987-88 for expanded adult education programs as provided for in House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the Kentucky General Assembly.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for community education grants as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

g. Local Services

1986-87	$17,227,100
1987-88	$19,721,900

Included in the above appropriation is $3,115,900 for fiscal year 1986-87 and $3,213,800 for fiscal year 1987-88 for reimbursement to local school districts for the Out-of-District Children program operated in accordance with KRS 158.135 and applicable regulations. Funds to be expended for the Out-of-District Children program shall be limited to these amounts, and if sufficient funds are not available within these allocated amounts to reimburse each district for the total allowed cost of the program, each allocation shall be ratably reduced to the level of available funds.

The above appropriation also includes $353,400 in fiscal year 1986-87 and $387,900 in fiscal year 1987-88 for school district audits; and $11,789,500 in fiscal year 1986-87 and $14,071,200 in fiscal year 1987-88 for the purchase of textbooks for grades kindergarten through eight. Local school districts shall establish, pursuant to State Board of Education regulations, a process whereby pupils may rent textbooks for a reasonable fee. Textbooks purchased by the State Board of Education, prior to July 1, 1984, for grades nine through twelve shall continue to be loaned or rented to pupils until they are no longer selected and listed by the State Textbook Commission. Rental fees collected by the district shall be used for the maintenance of the textbooks and the purchase of new textbooks.

The textbooks selected by the textbook commission for each subject and grade shall be used as basal text in school district for a period of six (6) years.

No appropriation is included in this Act for the replacement of student fees; therefore, public schools may charge students for necessary fees and rentals, and may require students to purchase necessary instructional materials.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for a management assistance program as provided for in House Bill 6 and House Concurrent Resolution 5 as enacted by the 1985 Extraordinary Session of the General Assembly.

h. Vocational Education

1985-86	$150,000
1986-87	$48,198,000
1987-88	$53,677,000

Included in the above appropriation is $3,300,000 in fiscal year 1987-88 to support locally operated vocational education departments and centers.

i. Vocational Rehabilitation

1986-87	$4,359,600
1987-88	$4,490,400

j. Administrative Services and Budget Management

1986-87	$4,041,000
1987-88	$4,210,900

TOTAL—DEPARTMENT OF EDUCATION

1985-86	$6,150,000
1986-87	$1,222,134,900
1987-88	$1,353,292,400

29. ADULT AND VOCATIONAL/TECHNICAL EDUCATION IMPROVEMENT PLAN

1986-87	$700,000
1987-88	$3,900,000

The above appropriation is for the purpose of implementing recommendations made by the Commission on Vocational/Technical Education, including the establishment of a new governance structure for adult and postsecondary vocational/technical education.

30. CAREER LADDER COMMISSION

1985-86	$200,000
1986-87	$2,500,000
1987-88	$2,500,000

31. COMMISSION ON VOCATIONAL/TECHNICAL EDUCATION

1985-86	$100,000
1986-87	$-0-
1987-88	$-0-

32. BLUEGRASS STATE SKILLS CORPORATION

1986-87	$1,000,000
1987-88	$1,000,000

33. KENTUCKY EDUCATIONAL TELEVISION

1986-87	$8,707,000
1987-88	$8,946,900

Included in the above appropriation is $610,800 in fiscal year 1986-87 and $607,500 in fiscal year 1987-88 for debt service. Also included in the above appropriation is $300,000 in fiscal year 1986-87 and $300,000 in fiscal year 1987-88 for GED Study-at-Home Program. Funds for extending broadcast hours are provided in the above appropriation at $311,400 in fiscal year 1986-87 and $330,000 in fiscal year 1987-88.

34. HISTORICAL SOCIETY

1986-87	$1,654,400
1987-88	$1,703,700

35. LIBRARY AND ARCHIVES

a. General Operations

1986-87	$6,404,600
1987-88	$6,634,200

Included in the above appropriation is $1,420,000 in fiscal year 1986-87 and $1,420,000 in fiscal year 1987-88 for debt service.

b. Direct Local Aid

1986-87	$3,561,800
1987-88	$3,574,300

Included in the above appropriation is $965,300 in fiscal year 1986-87 and $965,300 in fiscal year 1987-88 for state-aid grants to local public libraries.

36. DEPARTMENT FOR THE BLIND

1986-87 .... $1,256,000

1987-88 .... $1,293,700

37. KENTUCKY SCHOOL BUILDING AUTHORITY

1986-87 .... $6,763,800

1986-88 .... $6,782,300

Funds are appropriated for the purpose of meeting the debt service requirements on bonds and bond anticipation notes previously issued or authorized by the Authority. Also included in the above appropriation is debt service in the amount of $214,400 in fiscal year 1986-87 and $214,400 in fiscal year 1987-88 for the Letcher County project and debt service in the amount of $139,000 in fiscal year 1986-87 and $139,000 in fiscal year 1987-88 for the Jessamine County project.

38. TEACHERS' RETIREMENT SYSTEM

1986-87 .... $162,684,400

1987-88 .... $169,072,300

Funds are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 through 161.716.

The above appropriation is based upon estimated funds needed to meet the requirements of KRS 161.220 through 161.716. In the event the above appropriations are in excess of these requirements, such excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund dollars are provided in fiscal year 1986-87 or fiscal year 1987-88 for the cost of administration.

39. ORAL HISTORY COMMISSION

1986-87.................... $99,200

1987-88................... $102,000

40. HERITAGE COUNCIL

1986-87................... $673,000

1987-88................... $655,000

Included in the above appropriation is $245,000 in fiscal year 1986-87 and $215,000 in fiscal year 1987-88 for the Kentucky Main Street Program.

41. COMMISSION ON THE DEAF AND HEARING IMPAIRED

1986-87................... $215,300

1987-88................... $227,700

Included in the above appropriation is $25,000 in fiscal year 1986-87 and $30,000 in fiscal year 1987-88 for grants to be administered by the Commission on the Deaf and Hearing Impaired for interpreter service for postsecondary deaf or hearing impaired students.

42. OFFICE OF THE SECRETARY

1986-87 .... $242,600

1987-88 .... $262,200

Included in the above appropriation is $17,700 in fiscal year 1986-87 and $25,600 in fiscal year 1987-88 for the Client Assistance Program for operations.

43. GOVERNOR'S COMMISSION ON LITERACY

1986-87 .... $800,000

1987-88 .... $825,000

Included in the above appropriation is $735,000 in fiscal year 1986-87 and $757,000 in fiscal year 1987-88 for grants to be made available to local groups capable of conducting literacy training.

TOTAL EDUCATION AND HUMANITIES

1985-86 .... $6,450,000

1986-87 .... $1,419,397,000

1987-88 .... $1,560,771,700

E. ENERGY

44. KENTUCKY ENERGY CABINET

a. Administration and Support

1986-87 .... $922,900

1987-88 .... $963,200

b. Department of Energy Research and Development

1986-87 .... $6,797,700

1987-88 .... $7,017,400

c. Energy Demonstration Trust Fund

1986-87 .... $4,093,900

1987-88 .... $4,421,000

Included in the above appropriation is $3,460,000 in fiscal year 1986-87 and $3,280,000 in fiscal year 1987-88 for payments to the Tennessee Valley Authority for construction of the atmospheric fluidized bed combustion (AFBC) project located at the Shawnee plant near Paducah.

d. Department of Energy Production and Utilization

1986-87 .... $808,300

1987-88 .... $841,600

TOTAL—ENERGY CABINET

1986-87	$12,622,800
1987-88	$13,243,200

F. FINANCE AND ADMINISTRATION

45. FINANCE AND ADMINISTRATION CABINET

a. Office of the Secretary

1985-86	$35,000
1986-87	$2,721,200
1987-88	$3,021,200

Included in the above appropriation is $165,000 fiscal year 1986-87 and $175,000 in fiscal year 1987-88 for payment to the City of Frankfort for the provision of fire and police protection and other service for state owned property in accordance with KRS 45.155. Also included in the above appropriation is $250,000 in fiscal year 1987-88 for gubernatorial transition.

b. Department of Administration

1985-86	$81,100
1986-87	$5,994,600
1987-88	$5,406,400

c. Department of Facilities Management

1986-87	$6,987,000
1987-88	$8,453,600

Included in the above appropriation is $1,230,000 in fiscal year 1987-88 which shall be used for debt service for the Capitol and Capitol Annex mechanical and electrical renovation.

TOTAL—FINANCE AND ADMINISTRATION

1985-86	$116,100
1986-87	$15,702,800
1987-88	$16,881,200

G. HIGHER EDUCATION

46. COUNCIL ON HIGHER EDUCATION

1986-87	$10,103,400
1987-88	$16,558,300

Included in the above appropriation is $500,000 in fiscal year 1986-87 for the Enrollment Related Revenue Replacement Fund to address the potential continued decreases in enrollment at Morehead State University. This Fund is available only in the event that the fall semester full-time student headcount enrollment for the 1986-87 school year falls below 4,146. These funds will be made available subject to certification by the Morehead State University Board of Regents that all institutional financial remedies have been exhausted and confirmation from the Council on Higher Education that this extraordinary financial assistance to the institution is warranted. Subject to these assurances, this fund will replace lost revenues related to enrollment below the 4,146 level on a dollar for dollar basis up to $500,000. Funds not expended for this purpose will lapse to the credit of the General Fund at the end of fiscal year 1986-87.

47. HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87	$9,074,900
1987-88	$9,817,100

Included in the above appropriation is $500,000 in fiscal year 1986-87 and $1,000,000 in fiscal year 1987-88 for Teacher's Scholarships, as enacted in House Concurrent Resolution 5 and House Bill 6 of the 1985 Extraordinary Session of the General Assembly. Also included is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for Math and Science Scholarships as enacted in House Bill 6 of the 1985 Extraordinary Session of the General Assembly. Also included in the above appropriation is at least $5,704,500 in fiscal year 1986-87 and at least $5,610,600 in fiscal year 1987-88 for Kentucky Tuition Grants. The above appropriation also includes $4,755,600 in fiscal year 1986-87 and $5,148,300 in fiscal year 1987-88 for State Student Incentive Grants.

48. KENTUCKY STATE UNIVERSITY

1986-87	$13,872,000
1987-88	$14,455,400

Included in the above appropriation is $1,716,000 in fiscal year 1986-87 and $1,712,300 in fiscal year 1987-88 for debt service.

49. EASTERN KENTUCKY UNIVERSITY

1986-87	$38,690,200
1987-88	$40,635,900

Included in the above appropriation is $3,409,200 in fiscal year 1986-87 and $3,413,000 in fiscal year 1987-88 for debt service.

50. MOREHEAD STATE UNIVERSITY

1986-87	$23,494,700
1987-88	$24,617,100

Included in the above appropriation is $1,812,900 in fiscal year 1986-87 and $1,817,100 in fiscal year 1987-88 for debt service.

51. MURRAY STATE UNIVERSITY

1986-87	$28,325,300
1987-88	$31,157,300

Included in the above appropriation is $1,623,400 in fiscal year 1986-87 and $3,156,800 in fiscal year 1987-88 for debt service.

52. NORTHERN KENTUCKY UNIVERSITY

1986-87	$22,186,600
1987-88	$24,618,900

Included in the above appropriation is $2,354,300 in fiscal year 1986-87 and $3,588,000 in fiscal year 1987-1988 for debt service.

53. WESTERN KENTUCKY UNIVERSITY

1986-87 .... $37,098,300

1987-88 .... $38,991,900

Included in the above appropriation is $2,288,300 in fiscal year 1986-87 and $2,287,100 in fiscal year 1987-88 for debt service.

54. UNIVERSITY OF LOUISVILLE

1986-87 .... $103,620,300

1987-88 .... $111,993,400

Included in the above appropriation is $8,853,200 in fiscal year 1986-87 and $10,422,200 in fiscal year 1987-88 for debt service. Also included in the above appropriation is $10,913,700 in fiscal year 1986-87 and $11,459,400 in fiscal year 1987-88 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished by Humana Hospital-University. The appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1987-88.

55. UNIVERSITY OF KENTUCKY

1986-87 .... $201,350,300

1987-88 .... $225,808,700

Included in the above appropriation is $9,633,400 in fiscal year 1986-87 and $15,131,900 in fiscal year 1987-88 for debt service. Of the stated debt service amounts, $2,657,700 in fiscal year 1986-87 and $5,912,600 in fiscal year 1987-88 are for the Community College System.

Included in the above appropriation is an amount for the Community College System which shall not be less than $35,835,600 in fiscal year 1986-87 and $43,203,300 in fiscal year 1987-88

TOTAL—HIGHER EDUCATION

1986-87 .... $487,816,000

1987-88 .... $538,654,000

H. HUMAN RESOURCES

56. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87 .... $27,396,600

1987-88 .... $30,306,300

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy and/or Medicaid Benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance and the Department for

Medicaid Services. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1986-87 .... $50,598,800

1987-88 .... $51,191,700

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. No portion of this appropriation may be used for the costs of administration.

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be used for Medicaid Benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

b. Department for Medicaid Services

1. Administration

1986-87 .... $9,772,900

1987-88 .... $10,461,000

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Medicaid Benefits and/or Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Medicaid Services and for the Department for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1986-87	$192,518,000
1987-88	$215,117,000

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services. No portion of this appropriation may be used for the costs of administration.

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used to:

1. establish a new program,

2. expand the services of an existing program.

3. increase rates or payment levels in an existing program.

The Secretary of the Cabinet for Human Resources is hereby directed to develop by July 1, 1986, a Medicaid Reduction Plan for implementation should a fiscal year's projected expenditures exceed available revenues. Such a plan should provide all interested parties with as much information on a timely basis as possible. The Medicaid Reduction Plan shall be submitted for review, after approval of the Governor, to the Interim Joint Committee on Appropriations and Revenue prior to July 1, 1986.

c. Department for Employment Services

1986-87	$273,500
1987-88	$281,700

d. Department for Health Services

1986-87	$40,649,000
1987-88	$42,177,400

e. Department for Mental Health/Mental Retardation Services

1986-87	$79,362,700
1987-88	$83,576,900

Included in the above appropriation is $4,208,500 in fiscal year 1986-87 and $4,193,600 in fiscal year 1987-88 for debt service.

f. Department for Social Services

1986-87	$67,027,100
1987-88	$74,717,200

g. Administration and Program Support

1986-87	$13,475,700
1987-88	$15,548,400

The Secretary of the Cabinet for Human Resources shall be responsible to focus the Cabinet's resources, insofar as possible, on direct services and minimize indirect administrative expenses. To this end, the Cabinet is hereby authorized to promulgate administrative regulations to accomplish this legislative intent and limit administrative cost.

Limits are hereby established for all contracts except Medicaid Benefits, (including Program Administration Contracts) between the Cabinet and non-state government agencies and individuals. Reimbursement by the Cabinet for Human Resources to a contractor for actual, allowable administrative costs shall be limited to not more than fifteen percent (15%) of actual, allowable expenditures under the contract. In cases where the contractor in turn subcontracts for delivery of services due to the Cabinet, reimbursement by the Cabinet for actual, allowable administrative costs shall be limited to not more than twenty percent (20%) of the combined actual, allowable expenditures under the contract. The actual allocation of administrative costs between the contractor and the subcontractor within the twenty percent (20%) limitation shall be subject to negotiation between the contractor and subcontractor. The provision for allocation and definition of direct and indirect costs shall be set forth by administrative regulation.

In reference to Medicaid, reimbursement to providers shall be governed by the reimbursement policy established by the Cabinet and applicable Federal regulations except that every attempt shall be made to limit reimbursement of administrative expenses to only those services minimally required to facilitate direct service provisions to clients.

Auditors for the Cabinet and the State Auditor are hereby directed to complete audits of all Cabinet contracts, beginning with those effective July 1, 1986, and henceforth, with a statement of this intent as a criteria to be noted in such audit reports.

Included in the above appropriation is $3,801,000 in fiscal year 1986-87 and $5,062,300 in fiscal year 1987-88 for debt service.

TOTAL—HUMAN RESOURCES CABINET

1986-87 .... $481,074,300

1987-88 .... $523,377,600

57. Commission for Handicapped Children

1986-87 .... $5,633,000

1987-88 .... $6,058,000

58. Certificate of Need Authority

1986-87 .... $225,100

1987-88 .... $234,800

TOTAL—HUMAN RESOURCES

1986-87 .... $486,932,400

1987-88 .... $529,670,400

I. JUSTICE

59. JUSTICE CABINET

a. Department of Training

1986-87 .... $2,052,400

1987-88 .... $2,114,000

b. Department of State Police

1986-87 .... $62,383,000

1987-88 .... $66,268,000

Included in the above appropriation is $752,000 in fiscal year 1986-87 and in fiscal year 1987-88 for the Kentucky Early Warning System (KEWS) operation.

There is hereby appropriated to the Department of State Police funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

c. Justice Administration

1985-86 .... $50,000

1986-87 .... $1,514,200

1987-88 .... $1,581,300

The above appropriation of $50,000 in fiscal year 1985-86 is intended to match available federal grant funds under the Juvenile Justice Program.

TOTAL—JUSTICE CABINET

1985-86 .... $50,000

1986-87 .... $65,949,600

1987-88 .... $69,963,300

J. LABOR

60. LABOR CABINET

a. General Administration and Support

1986-87 .... $141,400

1987-88 .... $143,700

b. Department of Workplace Standards

1986-87 .... $1,369,600

1987-88 .... $1,436,000

TOTAL—LABOR CABINET

1986-87 .... $1,511,000

1987-88 .... $1,579,700

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

61. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 .... $7,672,100

1987-88 .... $7,844,600

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby appropriated; provided, however, that the Secretary of the Finance and Administration Cabinet shall certify as to the advisability of such expenditure and the Governor shall approve such expenditure by written order.

b. Department for Environmental Protection

1986-87 .... $11,038,500

1987-88 .... $11,604,300

c. Department for Surface Mining Reclamation and Enforcement

1986-87 .... $8,400,900

1987-88 .... $8,592,900

Included in the above appropriation is $1,000,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is hereby appropriated to the Department.

d. General Administration and Support

1986-87 .... $2,954,800

1987-88 .... $3,045,600

TOTAL—NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

1986-87 .... $30,066,300

1987-88 .... $31,087,400

62. ENVIRONMENTAL QUALITY COMMISSION

1986-87 .... $86,200

1987-88 .... $88,600

63. KENTUCKY NATURE PRESERVES COMMISSION

1986-87 .... $215,400

1987-88 .... $227,900

64. FLOOD CONTROL ADVISORY COMMISSION

1986-87 .... $75,800

1987-88 .... $79,200

TOTAL—NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1986-87 .... $30,443,700

1987-88 .... $31,483,100

L. PUBLIC PROTECTION AND REGULATION

65. OFFICE OF THE SECRETARY

1986-87 .... $335,700

1987-88 .... $353,000

66. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1986-87 .... $1,560,300

1987-88 .... $1,608,400

67. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

1986-87 .... $773,700

1987-88 .... $799,000

68. BOARD OF TAX APPEALS

1986-87 .... $218,800

1987-88 .... $225,800

69. DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

1986-87 .... $2,332,700

1987-88 .... $2,527,900

70. DEPARTMENT OF INSURANCE

1986-87 .... $1,670,800

1987-88 .... $1,715,400

71. KENTUCKY STATE RACING COMMISSION

1985-86 .... $20,000

1986-87 .... $465,600

1987-88 .... $479,600

72. KENTUCKY HARNESS RACING COMMISSION

1985-86 .... $20,000

1986-87 .... $552,300

1987-88 .... $568,400

73. DEPARTMENT OF MINES AND MINERALS

1985-86 .... $161,000

1986-87 .... $7,281,400

1987-88 .... $7,688,300

74. DEPARTMENT OF PUBLIC ADVOCACY

1986-87 .... $7,026,600

1987-88 .... $7,293,400

75. PUBLIC SERVICE COMMISSION

1986-87 .... $4,402,900

1987-88 .... $4,773,900

Included in the above appropriation is $88,100 in fiscal year 1986-87 which may be used for the capital project in Part V.

76. REGISTRY OF ELECTION FINANCE

1985-86 .... $51,400

1986-87 .... $349,500

1987-88 .... $365,300

TOTAL—PUBLIC PROTECTION AND REGULATION CABINET

1985-86 .... $252,400

1986-87 .... $26,970,300

1987-88 .... $28,398,400

M. REVENUE CABINET

77. REVENUE CABINET

a. General Administration and Support

1986-87 .... $5,187,600

1987-88 .... $5,441,600

Included in the above appropriation is the funding for the Office of the Secretary, Revenue Estimating and Economic Analysis, and the programs of the Department of Professional and Support Services.

b. Property Valuation Administrators

1986-87 .... $11,640,400

1987-88 .... $11,997,900

c. Department of Processing and Enforcement

1986-87 .... $24,336,100

1987-88 .... $25,639,000

d. Department of Property Taxation

1986-87 .... $3,932,500

1987-88 .... $4,282,700

TOTAL—REVENUE CABINET

1986-87 . . . . $45,096,600

1987-88 . . . . $47,361,200

N. TOURISM

78. SECRETARY

1986-87 . . . . $686,400

1987-88 . . . . $718,600

79. BREAKS INTERSTATE PARK

1986-87 . . . . $239,400

1987-88 . . . . $175,000

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

80. DEPARTMENT OF TRAVEL DEVELOPMENT

1986-87 . . . . $4,544,800

1987-88 . . . . $4,584,000

81. DEPARTMENT OF PARKS

1986-87 . . . . $17,273,800

1987-88 . . . . $19,774,700

82. KENTUCKY HORSE PARK

1986-87 . . . . $2,068,200

1987-88 . . . . $2,117,100

Included is $1,400,000 in fiscal year 1986-87 and $1,400,000 in fiscal year 1987-88 for the debt service requirement of the Project 29 Revenue Bonds.

83. STATE FAIR BOARD

1986-87 . . . . $6,153,400

1987-88 . . . . $6,383,800

Included in the above appropriation is at least $5,653,400 in fiscal year 1986-87 and $5,883,800 in fiscal year 1987-88 for debt service. Also included in the above appropriation is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for the North American International Livestock Exposition.

TOTAL—TOURISM CABINET

1986-87 . . . . $30,966,000

1987-88 . . . . $33,753,200

O. TRANSPORTATION

84. TRANSPORTATION CABINET

a. General Administration and Support

1986-87	$270,800
1987-88	$281,500

b. Air Transportation

1986-87	$1,417,400
1987-88	$1,449,500

Included in the above appropriation is $71,100 in fiscal year 1986-87 and $73,200 in fiscal year 1987-88 for debt service.

c. Rail Transportation

1986-87	$78,400
1987-88	$82,000

d. Public Transportation

1986-87	$539,900
1987-88	$547,300

TOTAL—TRANSPORTATION CABINET

1986-87	$2,306,500
1987-88	$2,360,300

TOTAL—EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1985-86	$10,461,000
1986-87	$2,923,308,000
1987-88	$3,190,432,400

Included in the above amounts is $18,553,600 in fiscal year 1986-87 and $8,387,800 in fiscal year 1987-88 for capital projects directly funded in Part V.

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1987, and for the fiscal year ending June 30, 1988, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State

Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1986-87 or fiscal year 1987-88 and any balance forwarded to the credit of any such account from the previous year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all trust and agency funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1987, and during the fiscal year ending June 30, 1988, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures, a comparative statement of any revised estimated receipts and expenditures with amounts provided in the Executive Budget as adopted by the 1986 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management, the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. SECRETARY OF STATE

All operating receipts from all activities of the Office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

2. BOARD OF ELECTIONS

1986-87	$150,000
1987-88	$111,300

3. TREASURY

1987-87	$216,400
1987-88	$165,000

4. DEPARTMENT OF LAW

1986-87	$1,976,400
1987-88	$2,117,900

5. COUNTY ATTORNEY

1986-87 .... $12,800

1987-88$-0-

6. AUDITOR OF PUBLIC ACCOUNTS

1986-87 .... $732,000

1987-88 .... $753,900

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any monies due that county government for the term of one hundred and twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting County Audits if additional revenues are needed to continue the operation of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) will change the method by which federal monies to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1986 General Assembly.

7. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87 .... $644,200

1987-88 .... $663,600

b. Disaster and Emergency Services

1986-87 .... $75,000

1987-88 .... $75,000

8. DEPARTMENT OF PERSONNEL

a. General Operations

1986-87 .... $2,121,200

1987-88 .... $2,182,000

b. Workers' Compensation Benefits and Reserve

1986-87 .... $5,020,900

1987-88 .... $5,174,800

The above appropriations represent estimates of the funds necessary to operate this program. In the event that additional funds are required to adequately maintain this program, it is the intent of the General Assembly that such necessary funds are hereby appropriated.

9. DEPARTMENT OF LOCAL GOVERNMENT

1986-87	$1,695,400
1987-88	$1,676,900

10. COUNTY FEES

	1986-87	*1987-88*
Jefferson County	$11,104,800	$11,437,900
Kenton County	1,905,900	1,963,100
Campbell County	1,052,100	1,083,600
Fayette County	3,577,500	3,684,800
Daviess County	1,125,700	1,159,500
Pike County	1,270,300	1,308,400

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, Daviess, and Pike are for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law. This is to be paid, by the State, to these officials when their claims for fees have been presented in the form and manner prescribed by law and approved by the Secretary of the Finance and Administration Cabinet. Each Fiscal Court of said counties are to receive twenty-five percent (25%) of said fees as required by KRS 64.350.

11. KENTUCKY RETIREMENT SYSTEMS

1986-87	$1,897,400
1987-88	$1,935,800

12. CAPITAL PLAZA

1986-87	$1,739,500
1987-88	$1,761,600

Included above is $1,410,400 in fiscal year 1986-87 and $1,446,200 in fiscal year 1987-88 for debt service payment of the Capital Plaza. Also included in the above appropriation is $329,300 in fiscal year 1986-87 and $315,400 in fiscal year 1987-88 for general operations.

13. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy	$273,000	$281,000
b. Board of Architects	57,100	58,800
c. Athletic Commission	70,000	71,100
d. Board of Auctioneers	122,300	127,200
e. Board of Barbers	112,500	115,800
f. Board of Chiropractic Examiners	35,000	36,500
g. Board of Dental Examiners	184,000	185,000
h. Board of Embalmers and Funeral Directors	102,000	103,500

i. Board of Engineers and Land Surveyors	297,900	306,900
j. Board of Hairdressers and Cosmetologists	533,400	549,300
k. Board of Hearing Aid Dealers	10,800	11,300
l. Board of Landscape Architecture	11,700	12,000
m. Board of Medical Licensure	607,000	625,200
n. Board of Nurses	945,600	974,000
o. Nursing Home Administrators Licensure Board	44,900	47,600
p. Board of Ophthalmic Dispensers	12,000	12,400
q. Board of Optometric Examiners	36,500	37,500
r. Board of Pharmacy	288,400	302,400
s. Board of Physical Therapy	51,700	53,300
t. Board of Podiatry	3,000	3,000
u. Board of Proprietary Education	60,200	61,400
v. Board of Psychology	24,200	25,200
w. Real Estate Commission		
1. Examination and Licensing	625,100	664,000
2. Real Estate Education Research and Recovery	492,000	507,800
x. Board of Social Workers	41,000	43,000
y. Board of Speech Pathologists and Audiologists	12,500	13,100
z. Board of Veterinary Examiners	88,800	91,400

14. PUBLIC EMPLOYEES DEFERRED COMPENSATION SYSTEM

1986-87 .... $173,700

1987-88 .... $171,300

15. KENTUCKY REINSURANCE ASSOCIATION

1986-87 .... $5,308,100

1987-88 .... $5,464,900

16. GOVERNMENTAL SERVICES CENTER

1986-87 .... $890,600

1987-88 .... $931,300

17. COMMISSION ON WOMEN

1986-87 . . . . $1,300

1987-88 . . . . $3,200

18. DEPARTMENT OF AGRICULTURE

1986-87 . . . . $500,900

1987-88 . . . . $526,600

B. COMMERCE

19. DEPARTMENT OF ECONOMIC DEVELOPMENT

1986-87 . . . . $380,800

1987-88 . . . . $344,800

20. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1986-87 . . . . $501,900

1987-88 . . . . $516,300

21. DEPARTMENT OF THE ARTS

1986-87 . . . . $217,700

1987-88 . . . . $221,700

22. TOBACCO RESEARCH BOARD

1986-87 . . . . $16,600

1987-88 . . . . $17,200

C. CORRECTIONS

23. CORRECTIONS CABINET

1986-87 . . . . $8,264,100

1987-88 . . . . $8,770,900

D. EDUCATION AND HUMANITIES

24. DEPARTMENT OF EDUCATION

a. General Administration

1986-87 . . . . $1,691,700

1987-88 . . . . $1,775,200

b. Education for Exceptional Children

1986-87 . . . . $399,000

1987-88 . . . . $505,200

c. Instruction

1986-87	$50,000
1987-88	$70,000

d. Local Services

1986-87	$5,000
1987-88	$1,000

e. Vocational Education

1986-87	$19,868,500
1987-88	$20,479,800

f. Vocational Rehabilitation

1986-87	$400,000
1987-88	$412,000

g. Administrative Services and Budget Management

1986-87	$153,800
1987-88	$217,900

25. KENTUCKY EDUCATIONAL TELEVISION

1986-87	$150,000
1987-88	$265,500

26. HISTORICAL SOCIETY

1986-87	$266,600
1987-88	$306,900

27. LIBRARY AND ARCHIVES

1986-87	$609,900
1987-88	$679,600

28. DEPARTMENT FOR THE BLIND

1986-87	$1,862,900
1987-88	$2,065,100

29. ORAL HISTORY COMMISSION

1986-87	$500
1987-88	$500

30. HERITAGE COUNCIL

1986-87	$500
1987-88	$500

31. TEACHERS' RETIREMENT SYSTEM

1986-87	$1,651,900
1987-88	$1,709,300

E. ENERGY

32. KENTUCKY ENERGY CABINET

1986-87	$527,500
1987-88	$410,000

F. FINANCE AND ADMINISTRATION

33. FINANCE AND ADMINISTRATION CABINET

a. Office of the Secretary

1986-87	$350,100
1987-88	$360,600

b. State Office for Social Security

1986-87	$379,400
1987-88	$398,800

c. Department of Administration

1986-87	$7,611,000
1987-88	$8,076,100

d. Department of Facilities Management

1986-87	$24,722,400
1987-88	$25,343,700

e. Department of Information Systems

1986-87	$24,648,300
1987-88	$26,767,800

G. HIGHER EDUCATION

34. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87	$8,619,200
1987-88	$7,093,900

Included in the above appropriation is at least $1,581,700 in fiscal year 1986-87 and at least $404,100 in fiscal year 1987-88 for State Student Incentive Grants. Also included in the above appropriation is at least $1,081,700 in fiscal year 1986-87 and at least $404,100 in fiscal year 1987-88 for Kentucky Tuition Grants. Furthermore, included in the above appropriation is $200,000 in fiscal year 1986-87 and $200,000 in fiscal year 1987-88 to be granted to the Governor's Scholars Program. The above appropriation also includes $1,234,600 in fiscal year 1986-87 and $1,336,100 in fiscal year 1987-88 for the Work Study Program, from which funds may be expended for Distinguished Scholarship Awards.

35. UNIVERSITY OF KENTUCKY

1986-87	$251,605,100
1987-88	$262,187,000

Included in the above appropriation is $1,811,800 for debt service in fiscal year 1987-88 to support one-half of the $20,370,000 of bond supported equipment purchases authorized in the capital construction section of this Act. Included in the General Fund section of this Act under the University of Kentucky, debt service is provided to support the other half of these equipment purchases.

36. UNIVERSITY OF LOUISVILLE

1986-87	$86,962,000
1987-88	$88,546,200

37. EASTERN KENTUCKY UNIVERSITY

1986-87	$35,844,200
1987-88	$36,693,700

38. WESTERN KENTUCKY UNIVERSITY

1986-87	$26,150,700
1987-88	$26,628,000

39. MOREHEAD STATE UNIVERSITY

1986-87	$17,459,800
1987-88	$17,459,800

40. MURRAY STATE UNIVERSITY

1986-87	$24,272,100
1987-88	$24,627,400

41. KENTUCKY STATE UNIVERSITY

1986-87	$6,003,500
1987-88	$6,061,500

42. NORTHERN KENTUCKY UNIVERSITY

1986-87	$15,299,600
1987-88	$15,696,300

H. HUMAN RESOURCES

43. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87	$1,801,400
1987-88	$2,567,200

2. Benefits

1986-87	$2,270,000
1987-88	$2,600,000

b. Department for Employment Services

1986-87	$2,020,200
1987-88	$2,080,800

c. Department for Health Services

1986-87	$2,799,200
1987-88	$2,972,400

d. Department for Mental Health/Mental Retardation

1986-87	$37,646,900
1987-88	$38,391,000

e. Department for Social Services

1986-87	$6,074,600
1987-88	$5,772,600

f. Administration and Program Support

1986-87	$6,058,000
1987-88	$6,227,200

Included in the above appropriation is $270,000 in fiscal year 1986-87 and $300,000 in fiscal year 1987-88 for debt service on the L & N Building.

g. Commission for Handicapped Children

1986-87	$525,000
1987-88	$581,400

h. Certificate of Need Authority

1986-87	$118,900
1987-88	$122,400

I. JUSTICE

44. JUSTICE CABINET

a. Department of Training

1986-87 . . . . $8,885,000

1987-88 . . . . $9,313,600

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to his regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $8,500,000 in fiscal year 1986-87 and $8,925,000 in fiscal year 1987-88 receipts pursuant to KRS 136.392 for the purpose of the Kentucky Law Enforcement Foundation Program as enacted by the 1984 General Assembly. Also, included is $153,000 in fiscal year 1986-87 and $174,600 in fiscal year 1987-88 for the operation of the Kentucky Law Enforcement Council program and the administration of the Kentucky Law Enforcement Foundation Program Fund.

b. Department of State Police

1986-87 . . . . $1,344,600

1987-88 . . . . $1,344,600

c. Justice Administration

1986-87 . . . . $829,000

1987-88 . . . . $828,600

J. LABOR

45. LABOR CABINET

a. General Administration and Support

1986-87 . . . . $2,197,000

1987-88 . . . . $2,292,500

b. Department of Worker Claims

1986-87 . . . . $70,087,400

1987-88 . . . . $71,939,500

Included in the above appropriation is $83,000 in fiscal year 1986-87 which may be used for the capital project in Part V.

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 . . . . $5,977,100

1987-88 . . . . $6,913,300

Included in the above appropriation is $150,000 in fiscal year 1986-87 and $158,000 in fiscal year 1987-88 from the Water Patrol Fund as established by KRS 235.330 for operation of the locks and dams on the Kentucky River.

b. Department for Environmental Protection

1986-87 .... $602,300

1987-88 .... $935,900

c. Department for Surface Mining Reclamation and Enforcement

1986-87 .... $124,300

1987-88 .... $128,000

d. General Administration and Support

1986-87 .... $197,400

1987-88 .... $265,000

47. KENTUCKY NATURE PRESERVES COMMISSION

1986-87 .... $67,400

1987-88 .... $51,000

L. PUBLIC PROTECTION AND REGULATION

48. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1986-87 .... $3,500

1987-88 .... $3,500

49. DEPARTMENT OF FINANCIAL INSTITUTIONS

1986-87 .... $3,018,200

1987-88 .... $2,903,300

50. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1986-87 .... $400,500

1987-88 .... $386,600

51. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1986-87 .... $12,212,400

1987-88 .... $12,525,900

52. DEPARTMENT OF INSURANCE

1986-87 .... $3,099,500

1987-88 .... $3,198,100

Included in the above appropriation is $277,900 in fiscal year 1986-87 and $272,500 in fiscal year 1987-88 which may be used for the capital project in Part V.

53. KENTUCKY STATE RACING COMMISSION

1986-87 . . . . $3,548,200

1987-88 . . . . $3,595,900

54. BACKSIDE IMPROVEMENT COMMISSION

1986-87 . . . . $548,200

1987-88 . . . . $550,400

55. KENTUCKY HARNESS RACING COMMISSION

1986-87 . . . . $1,173,200

1987-88 . . . . $1,223,800

56. DEPARTMENT OF MINES AND MINERALS

1986-87 . . . . $1,109,100

1987-88 . . . . $1,109,100

57. DEPARTMENT OF PUBLIC ADVOCACY

1986-87 . . . . $145,900

1987-88 . . . . $155,900

58. PUBLIC SERVICE COMMISSION

1986-87 . . . . $8,300

1987-88 . . . . $8,500

M. REVENUE

59. REVENUE CABINET

a. General Administration and Support

1986-87 . . . . $35,000

1987-88 . . . . $35,000

General Administration and Support is comprised of the Office of the Secretary, the Office of Revenue Estimating and Economic Analysis, and the Department of Professional and Support Services.

b. Property Valuation Administrators

1986-87 . . . . $717,000

1987-88 . . . . $1,007,900

c. Department of Processing and Enforcement

1986-87 . . . . $749,300

1987-88 . . . . $771,800

d. Department of Property Taxation

1986-87 . . . . $1,216,200

1987-88 . . . . $905,900

N. TOURISM

60. DEPARTMENT OF TRAVEL DEVELOPMENT

1986-87 . . . . $21,600

1987-88 . . . . $12,800

61. DEPARTMENT OF PARKS

1986-87 . . . . $31,369,800

1987-88 . . . . $30,530,600

Included in the above appropriation is $850,000 in fiscal year 1986-87 and $850,000 in fiscal year 1987-88 for the debt service on revenue bonds issued for Project 14 and Project 16 issued in 1965 and 1967, respectively.

62. KENTUCKY HORSE PARK

1986-87 . . . . $3,179,400

1987-88 . . . . $3,267,200

63. KENTUCKY STATE FAIR BOARD

1986-87 . . . . $14,269,600

1987-88 . . . . $14,527,300

64. FISH AND WILDLIFE RESOURCES

1986-87 . . . . $11,910,500

1987-88 . . . . $12,553,900

O. TRANSPORTATION

65. TRANSPORTATION CABINET

a. Air Transportation

1986-87 . . . . $50,000

1987-88 . . . . $50,000

b. Public Transportation

1986-87 . . . . $58,900

1987-88 . . . . $58,900

c. Highways

1986-87 . . . . $515,000

1987-88 . . . . $515,000

TOTAL

1986-87 .... $1,009,038,500

1987-88 .... $986,798,600

PART III

FEDERAL FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1987, and for the fiscal year ending June 30, 1988, Federal subventions, grants, contracts and other Federal Funds received, income from investments and other miscellaneous Federal receipts received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Federal Fund out of which shall be established separate accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All Funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapter 12, 42, 45, and 48.

In the event receipts received and credited to any Federal Fund account during fiscal year 1986-87 or fiscal year 1987-88, and any balance forwarded to the credit of any such account from the previous fiscal year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administrative Cabinet; provided, however, that institutions of higher education may receive and expend all Federal Funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Federal Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1987, and during the fiscal year ending June 30, 1988, all receipts placed to the credit of the Federal Fund for such year, out of which has been established a Federal Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures for the ensuing fiscal year, a comparison of any revised estimates with the amounts provided in the Executive Budget as adopted by the 1986 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

No state agency which shall be entitled to receive federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive such entitlement without notification to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. DEPARTMENT OF LAW

1986-87 .... $1,420,500

1987-88 .... $1,378,200

2. COMMONWEALTH'S ATTORNEY

1986-87	$10,000
1987-88	$-0-

3. DEPARTMENT OF AGRICULTURE

1986-87	$2,150,100
1987-88	$1,880,400

4. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87	$967,500
1987-88	$937,700

b. Disaster and Emergency Services

1986-87	$1,285,900
1987-88	$1,442,600

5. DEPARTMENT OF LOCAL GOVERNMENT

1986-87	$30,485,900
1987-88	$30,592,700

B. COMMERCE

6. DEPARTMENT OF THE ARTS

1986-87	$497,800
1987-88	$497,800

C. CORRECTIONS

7. CORRECTIONS CABINET

1986-87	$376,500
1987-88	$376,500

D. EDUCATION AND HUMANITIES

8. DEPARTMENT OF EDUCATION

a. General Administration

1986-87	$75,115,000
1987-88	$75,866,100

b. Education for Exceptional Children

1986-87	$21,834,300
1987-88	$22,459,400

c. Instruction

1986-87	$75,832,200
1987-88	$78,140,600

d. Local Services

1986-87	$24,000
1987-88	$-0-

e. Vocational Education

1986-87	$16,906,200
1987-88	$17,413,400

f. Vocational Rehabilitation

1986-87	$19,333,900
1987-88	$20,039,000

g. Administrative Services and Budget Management

1986-87	$2,227,400
1987-88	$2,259,900

9. OFFICE OF THE SECRETARY

1986-87	$93,300
1987-88	$93,400

10. LIBRARIES AND ARCHIVES

1986-87	$1,559,500
1987-88	$1,520,100

11. KENTUCKY EDUCATIONAL TELEVISION

1986-87	$18,000
1987-88	$18,000

12. DEPARTMENT FOR THE BLIND

1986-87	$3,350,400
1987-88	$3,462,200

13. GOVERNOR'S COUNCIL ON VOCATIONAL EDUCATION

1986-87	$120,000
1987-88	$120,000

14. HERITAGE COUNCIL

1986-87	$633,200
1987-88	$606,500

E. ENERGY

15. KENTUCKY ENERGY CABINET

1986-87	$1,086,500
1987-88	$935,200

F. HIGHER EDUCATION

16. HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87	$927,600
1987-88	$927,600

17. UNIVERSITY OF KENTUCKY

1986-87	$36,971,800
1987-88	$37,932,100

18. UNIVERSITY OF LOUISVILLE

1986-87	$8,252,200
1987-88	$8,252,200

19. EASTERN KENTUCKY UNIVERSITY

1986-87	$6,858,700
1987-88	$6,878,000

20. WESTERN KENTUCKY UNIVERSITY

1986-87	$5,029,100
1987-88	$5,029,100

21. MOREHEAD STATE UNIVERSITY

1986-87	$3,402,000
1987-88	$3,402,000

22. MURRAY STATE UNIVERSITY

1986-87	$5,883,300
1987-88	$6,304,200

23. KENTUCKY STATE UNIVERSITY

1986-87	$6,343,600
1987-88	$6,549,200

24. NORTHERN KENTUCKY UNIVERSITY

1986-87	$1,968,700
1987-88	$1,968,700

G. HUMAN RESOURCES

25. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87	$48,367,500
1987-88	$50,327,100

2. Benefits

1986-87	$122,931,200
1987-88	$125,108,300

b. Department for Medicaid Services

1. Administration

1986-87	$17,122,900
1987-88	$18,033,500

2. Benefits

1986-87	$455,687,000
1987-88	$509,192,000

c. Department for Employment Services

1. Administration—Unemployment Insurance

1986-87	$17,692,500
1987-88	$18,540,300

2. Benefits—Unemployment

1986-87	$173,685,000
1987-88	$205,768,000

3. Employment Services

1986-87	$84,526,900
1987-88	$87,351,200

d. Department for Health Services

1986-87 .... $66,935,100

1987-88 .... $68,982,200

e. Department for Mental Health/Mental Retardation Services

1986-87 .... $8,250,000

1987-88 .... $7,793,000

f. Department for Social Services

1986-87 .... $70,219,900

1987-88 .... $70,133,400

g. Administration and Program Support

1986-87 .... $14,721,500

1987-88 .... $13,739,200

Included in the above appropriation is $1,303,100 in fiscal year 1986-87 for debt service on the L&N Building.

h. Commission for Handicapped Children

1986-87 .... $3,076,400

1987-88 .... $3,076,400

i. Certificate of Need Authority

1986-87................... $252,200

1987-88................... $258,400

H. JUSTICE

26. JUSTICE CABINET

a. Justice Administration

1986-87 .... $2,577,200

1987-88 .... $2,583,600

b. Department of State Police

1986-87 .... $3,227,500

1987-88 .... $3,360,900

I. LABOR

27. LABOR CABINET

a. Department of Workplace Standards

1986-87 . . . . $3,769,600

1987-88 . . . . $3,931,800

b. Kentucky Occupational Safety and Health Review Commission

1986-87 . . . . $290,400

1987-88 . . . . $314,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

28. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 . . . . $4,368,800

1987-88 . . . . $4,235,200

b. Department for Environmental Protection

1986-87 . . . . $5,761,300

1987-88 . . . . $5,501,900

c. Department for Surface Mining Reclamation and Enforcement

1986-87 . . . . $11,525,200

1987-88 . . . . $11,720,700

d. General Administration and Support

1986-87 . . . . $1,339,200

1987-88 . . . . $1,385,400

K. PUBLIC PROTECTION AND REGULATION

29. DEPARTMENT OF MINES AND MINERALS

1986-87 . . . . $777,400

1987-88 . . . . $777,400

30. DEPARTMENT OF PUBLIC ADVOCACY

1986-87 . . . . $229,700

1987-88 . . . . $227,800

31. PUBLIC SERVICE COMMISSION

1986-87 . . . . $173,100

1987-88 . . . . $169,000

32. DEPARTMENT OF INSURANCE

1986-87	$156,700
1987-88	$197,700

33. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION

1986-87	$218,800
1987-88	$300,000

34. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1986-87	$13,800
1987-88	$13,800

L. TRANSPORTATION

35. TRANSPORTATION CABINET

a. Air Transportation

1986-87	$11,900
1987-88	$12,300

b. Rail Transportation

1986-87	$237,000
1987-88	$70,000

c. Public Transportation

1986-87	$2,621,800
1987-88	$2,700,300

d. Highways

1986-87	$260,107,400
1987-88	$260,387,700

If federal receipts due to the Commonwealth are in excess of the above appropriations, such funds are hereby appropriated.

TOTAL

1986-87	$1,766,500,900
1987-88	$1,852,371,900

PART IV

ROAD FUND

KRS 48.010(13)(g) provides that the Road Fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and monies derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways.

The following monies are appropriated from the Road Fund:

A. TRANSPORTATION

1. TRANSPORTATION CABINET

a. General Administration and Support

1986-87	$40,483,900
1987-88	$41,484,500

b. Highways

1986-87	$474,714,100
1987-88	$476,250,300

1. Included within the above appropriation is $22,091,300 in fiscal year 1986-87 and $20,926,600 in fiscal year 1987-88 for state construction projects. The Secretary of Transportation may use State Construction appropriations for emergencies which occur on county roads, e.g., bridge failures, severe snow and ice, slips and slides.

2. Included within the above appropriation is $45,446,200 in fiscal year 1986-87 and $45,458,500 in fiscal year 1987-88 for Toll Road lease rental payments.

3. Included within the above appropriation is $18,346,700 in fiscal year 1986-87 and $18,324,500 in fiscal year 1987-88 for debt service on general obligation highway bonds.

4. Included within the above appropriation is $43,168,300 in fiscal year 1986-87 and $43,178,200 in fiscal year 1987-88 for Resource Recovery Road lease rental payments. It is the intent of the General Assembly that the Secretary of Transportation shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required shall be transferred from the proceeds of the tax levied on severance or processing of coal by KRS 143.020 to meet the obligation.

5. Included within the above appropriation is $36,045,300 in fiscal year 1986-87 and $36,045,100 in fiscal year 1987-88 for Economic Development Road lease rental payments.

6. Included within the above appropriation is $32,526,000 in fiscal year 1986-87 and $32,370,000 in fiscal year 1987-88 for the County Road Aid Program.

7. Included within the above appropriation is $46,287,000 in fiscal year 1986-87 and $46,065,000 in fiscal year 1987-88 for the Rural Secondary program.

8. Included within the above appropriation is $13,969,500 in fiscal year 1986-87 and $13,902,500 in fiscal year 1987-88 for the Municipal Aid program.

9. Included within the above appropriation is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for the Coal Recovery Road Fund.

10. Included within the above appropriation is an amount which shall not be more than $30,000 in fiscal year 1986-87 for the casting and placement of appropriate markers at the Greenup Dam Bridge in memory of Jesse Stuart and at the South Shore Bridge in memory of U.S. Congressman Carl D. Perks.

TOTAL—TRANSPORTATION CABINET

1986-87	$519,023,000
1987-88	$519,749,700

Included in the above amounts are $3,825,000 in fiscal year 1986-87 and $2,014,900 in fiscal year 1987-88 for capital projects directly funded in Part V.

ROAD FUND SURPLUS EXPENDITURE PLAN

Pursuant to KRS 48.140, there is hereby established a plan for the expenditure of Road Fund tax receipts up to two and one-half percent (2.5%) in excess of the tax receipts estimate for the Road Fund as determined by subsection (3) of KRS 48.120. This Road Fund surplus expenditure plan provides for additional moneys for non-recurring expenditures of the Transportation Cabinet for which an appropriation was not made in this Appropriation Act, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance, and support of the Transportation Cabinet based on detailed estimates provided by the Revenue Cabinet in the amount of $506,440,000 in fiscal year 1986-87 and $516,250,000 in fiscal year 1987-88, therefore the General Assembly does hereby authorize the expenditure of excess receipts up to a maximum of $12,661,000 in fiscal year 1986-87 and $12,906,300 in fiscal year 1987-88 as provided in this Road Fund surplus expenditure plan.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of each completed fiscal year, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through the Road Fund surplus expenditure plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of Transportation in a timely manner.

The Secretary of Transportation is hereby authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, for the purposes stated herein, subject to the following restrictions. First, the available receipts shall be used for non-recurring State Construction or Resurfacing projects, or for equipment or other capital outlay purchases; then, to restore requested fund levels disallowed by the 1986 General Assembly; and then, to match discretionary Federal Aid Highway funds.

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a plan for the reduction of the Road Fund budget, by budget unit, in the event that projected or actual tax receipts accruing to the Road Fund are at least two and one-half percent (2.5%) but not more than five percent (5%) less than the revenue estimate for this fund as determined under subsection (3) of KRS 48.120.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance and support of the Transportation Cabinet based on detailed estimates provided by the Revenue Cabinet in the amount of $506,440,000 in fiscal year 1986-87 and $516,250,000 in fiscal year 1987-88, therefore, in the event of an actual or projected deficit in tax receipts accruing to the Road Fund of less than $12,661,000 in fiscal year 1986-87 or $12,906,300 in fiscal year 1987-88, the Governor shall implement budget reductions on the Governor's own initiative, as prescribed in subsection (5) of KRS 48.130.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance, and support of the Transportation Cabinet based on detailed estimates provided by the Revenue Cabinet in the amount of $506,440,000 in fiscal year 1986-87 and $516,250,000 in fiscal year 1987-88, therefore, in the event that projected or actual tax receipts accruing to the Road Fund are at least $12,661,000 but not more than $25,322,000 less than the revenue estimate in fiscal year 1986-87, or at least $12,906,300 but not more than $25,812,500 less than the revenue estimate in fiscal year 1987-88, the General Assembly does hereby authorize the implementation of this Road Fund budget reduction plan.

In the event funds that have accrued to the surplus account of the Road Fund are sufficient to meet the deficit, transfers from this surplus account shall be made, as appropriate, and the budget reduction provisions embodied in this Appropriation Act shall not be implemented.

In the event funds that have accrued to the surplus account of the Road Fund are not sufficient to meet the deficit, this Road Fund budget reduction plan shall be implemented. Allotments to the budget units of General Administration and Support, and Highways shall be reduced to the extent required to meet the deficit. The Secretary of Transportation shall determine the priority of reductions in order to protect the highest possible level of service, with the following restrictions. Allocations required by statutory Road Fund revenue sharing programs shall be adjusted pursuant to the applicable statutes. Appropriations for debt service on general obligation bonds and appropriations for lease rental payments to the Turnpike Authority of Kentucky shall be excluded from the reduction plan.

In the event that the provisions of this Road Fund budget reduction plan are implemented, the reporting procedures established in KRS 48.600 shall be observed.

In the event that Road Fund tax receipts increase over the estimated deficit, then services shall be restored in the reverse order of the reduced services.

PART V

CAPITAL CONSTRUCTION FUND

Monies in the Capital Construction fund are appropriated for the following capital projects. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1986-88 biennium.

A. COMMERCE

	1986-87	1987-88
1. Office of the Secretary		
a. Economic Development Projects		
Bond Fund (1985-86—$125,000,000)		
Bond Fund	30,000,000	10,000,000

B. CORRECTIONS

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. New Medium Security Institution Bond Fund (1985-86—$44,000,000)		
2. Kentucky State Reformatory—Construction of New Dormitory		
Bond Fund	3,700,000	
3. Northpoint Training Center—Roof Replacement		
Bond Fund	816,000	
4. Luther Luckett Correctional Complex—Sewage System Renovation		
Bond Fund	317,100	
5. Blackburn Correctional Complex—Replacement of Sewer Distribution Lines		
Investment Income	387,400	

6. Blackburn Correctional Complex—Roof Replacement		
Bond Fund	502,500	
7. Kentucky State Penitentiary—Flashing, Guttering, and Downspout Repair of Administration Building and Cellhouses 1, 2, and 4		
Bond Fund	122,000	
8. Miscellaneous Maintenance Projects		
Bond Fund	250,000	250,000
Investment Income	250,000	250,000
TOTAL	500,000	500,000
9. Northpoint Training Center—Fire Truck		
Agency Fund		70,000
10. Correctional Industries—Tractor/Refrigerator Van		
Agency Fund		75,000
11. Correctional Industries—Metal Press		
Agency Fund		125,000
12. Kentucky Correctional Institution for Women—Facility Upgrade		
Bond Fund		
13. Kentucky State Reformatory—Renovation or Construction of Two Dormitories		
Bond Fund		
14. Kentucky State Penitentiary—Sewage and Water Plant Upgrade		
Bond Fund		

C. EDUCATION AND HUMANITIES

1. Kentucky Educational Television		
a. Six Electronic Field Production Cameras		
Investment Income	240,000	120,000
b. Roof Replacement—Network Center		
Investment Income	38,000	
Bond Fund	162,000	
Total	200,000	

2. Department of Education

a. Computer Numerical Control Vertical Milling Center-Breckinridge County Area Vocational Education Center

General Fund	69,000	

D. ENERGY

1. Roof Replacement and Repair

General Fund	77,000	5,000

2. Laboratory Ventilation System

General Fund	400,000	

E. FINANCE AND ADMINISTRATION

The Bond fund project listed below is authorized in fiscal year 1986-87 so that preliminary work on the project may proceed. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

1. Facilities Management

a. Emergency Repair, Maintenance and Replacement Fund

Investment Income	3,000,000	3,000,000
General Fund	1,750,000	2,000,000
Total	4,750,000	5,000,000

b. Capital Construction and Equipment Purchase Contingency Fund

Investment Income	500,000	500,000
General Fund	1,012,200	588,800
Total	1,512,200	1,088,800

c. Capital and Capitol Annex Mechanical Renovation

Investment Income	1,180,000	
Bond Fund	10,000,000	
Total	11,180,000	

d. Health Service Building Asbestos Abatement

Investment Income	3,000,000	

e. Centralized Laboratory Building-Planning

General Fund	1,250,000	

f. Capital Grounds Master Plan

Investment Income (1985-86—$500,000)

General Fund	500,000	500,000
Investment Income	1,500,000	
Total	2,000,000	500,000
g. Mines and Minerals Building		
Investment Income	3,066,100	
h. Miscellaneous Projects		
Investment Income	550,000	550,000

2. Information Systems

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation. This debt program is consistent with the definition of Building Projects in KRS 56.440(1)(4).

a. Cache Disk Controller		
Bond Fund	432,200	
b. Cache Disk Controller		
Bond Fund		432,200
c. Cache Disk Controller		
Agency Fund	120,000	120,000
d. Cache Disk Controller		
Agency Fund	120,000	120,000
e. Disk Storage/Control Device		
Bond Fund	130,000	
f. Disk Storage/Control Device		
Bond Fund	130,000	
g. Disk Storage/Control Device		
Bond Fund	130,000	
h. Disk Storage/Control Device		
Bond Fund		130,000
i. Disk Storage/Control Device		
Bond Fund		130,000
j. Disk Storage/Control Device		
Bond Fund		130,000

k. Disk Storage/Control Device		
Bond Fund		130,000
l. Disk Drive		
Bond Fund	110,000	
m. Disk Drive		
Bond Fund	110,000	
n. Disk Drive		
Bond Fund	110,000	
o. Disk Drive		
Bond Fund	110,000	
p. Disk Drive		
Bond Fund	110,000	
q. Disk Drive		
Bond Fund		110,000
r. Disk Drive		
Bond Fund		110,000
s. Disk Drive		
Bond Fund		110,000
t. Disk Drive		
Bond Fund		110,000
u. Disk Drive		
Bond Fund		110,000
v. Disk Drive		
Bond Fund		110,000
w. Disk Drive		
Bond Fund		110,000
x. Computer Memory Upgrade		
Bond	400,300	
y. Communications Controller		
Bond Fund	200,500	

z. Communications Controller		
Bond Fund		200,500
aa. Magnetic Tape Controller		
Bond Fund	95,200	
bb. Magnetic Tape Controller		
Bond Fund	95,200	
cc. Magnetic Tape Controller		
Bond Fund	95,200	
dd. Magnetic Tape Controller		
Bond Fund	95,200	
ee. Magnetic Tape Drive		
Bond Fund	75,200	
ff. Magnetic Tape Drive		
Bond Fund	75,200	
gg. Magnetic Tape Drive		
Bond Fund	75,200	
hh. Magnetic Tape Drive		
Bond Fund	75,200	
ii. Magnetic Tape Drive		
Bond Fund	75,200	
jj. Magnetic Tape Drive		
Bond Fund	75,200	
kk. Magnetic Tape Drive		
Bond Fund	75,200	
ll. Magnetic Tape Drive		
Bond Fund	75,200	
mm. Magnetic Tape Drive		
Bond Fund	75,200	
nn. Magnetic Tape Drive		
Bond Fund	75,200	

oo. Magnetic Tape Drive		
Bond Fund	75,200	
pp. Magnetic Tape Drive		
Bond Fund	75,200	
qq. Magnetic Tape Drive		
Bond Fund	75,200	
rr. Magnetic Tape Drive		
Bond Fund	75,200	
ss. Magnetic Tape Drive		
Bond Fund	75,200	
tt. Magnetic Tape Drive		
Bond Fund	75,200	
uu. Internet Expansion		
Bond Fund	303,000	
vv. Distributed Processor System		
Agency Fund	840,000	840,000
ww. High Speed Page Printer		
Bond Fund	400,600	
xx. Network Performance Management System		
Bond Fund	250,500	
yy. Disk Controller Upgrade		
Bond Fund	364,200	
zz. Disk Controller Upgrade		
Bond Fund	364,200	
aaa. Disk Controller Upgrade		
Bond Fund	364,200	
bbb. Disk Controller Upgrade		
Bond Fund	364,200	
ccc. Central Site CPU Replacement		
Bond Fund		6,004,000

ddd. Microfiche Processor		
Bond Fund	130,400	
eee. Programmable Configuration System		
Bond Fund	100,000	
fff. Programmable Configuration System		
Bond Fund	100,000	
ggg. Automatic Loading Tape Library System		
Bond Fund	250,400	
hhh. Microwave System		
Bond Fund	252,000	
iii. Artificial Intelligence Unit		
Bond Fund	150,300	
jjj. Artificial Intelligence Unit		
Bond Fund		150,300
kkk. Distributed Processing System		
Bond Fund	1,005,000	
lll. Distributed Processing System		
Bond Fund		1,005,000
mmm. Distributed Processing System		
Bond Fund		1,005,000
nnn. Central Site CPU Upgrade		
Bond Fund		6,004,000
ooo. High Speed Page Printer-Office Automation		
Bond Fund	400,600	
ppp. Minicomputer System—Teachers' Retirement		
Bond Fund	251,000	
qqq. Minicomputer System—Commerce		
Bond Fund	303,000	

F. GOVERNMENT OPERATIONS

1. Department of Agriculture

For the major equipment purchase displayed in the Department of Agriculture as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

a. Stockyard Unit		
Agency Fund	70,000	
2. Capital Plaza Authority		
a. Replacement of Bleachers		
General Fund		500,000
3. Department of Military Affairs		
a. Major Maintenance and Repairs		
Investment Income	750,000	750,000
Federal Fund	850,100	335,200
Total	1,600,100	1,085,200
b. Sikorsky S-76 Lease/Rental		
Investment Income	481,200	481,200
c. Frankfort National Guard Armory		
Investment Income	1,941,400	
Federal Fund	3,410,800	
Total	5,352,200	
d. Ashland National Guard Armory		
Investment Income		53,700
Federal Fund		76,900
Total		130,600
e. Army Aviation Support Facility—Frankfort		
Investment Income		52,400
Federal Fund		241,000
Total		293,400
f. Frankfort Armory Alterations		
Investment Income		120,700
Federal Fund		269,600
Total		390,300

g. Maintenance of Helicopters	
Investment Income	
h. Unit Training Equipment Site-Clay City	
Investment Income	111,100
Federal Fund	1,108,100
Total	1,219,200
i. Danville National Guard Armory	
Investment Income	221,000
Federal Fund	57,900
Total	278,900
j. Richmond Armory Addition	
Investment Income	138,800
Federal Fund	18,600
Total	157,400
k. Prestonsburg Armory Addition	
Investment Income	16,800
Federal Fund	17,300
Total	34,100
l. Hazard Armory Expansion	
Investment Income	16,000
Federal Fund	21,900
Total	37,900
m. Barbourville Armory Addition	
Investment Income	19,800
Federal Fund	20,400
Total	40,200
n. Jackson Armory Expansion	
Investment Income	9,000
Federal Fund	19,000
Total	28,000

o. Capital City Airport—Runway Overlay		
Investment Income	450,000	
4. Secretary of State		
a. Microfilm Processor		
General Fund	61,400	
5. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Bond Fund	26,400,000	61,600,000

G. HIGHER EDUCATION

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund of each university at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Eastern Kentucky University	
a. Foster Music Building—Phase II	
Bond Fund	550,000
b. Moore Building	
Bond Fund	500,000
c. Air Condition Chillers Repair/Replace	
Bond Fund	2,000,000
d. Domestic Hot Water Boilers Repair/Replacement	
Bond Fund	350,000
e. Martin Hall Repairs	
Bond Fund	300,000
f. Communications Network	
Bond Fund	3,000,000
g. Begley Building	
Bond Fund	1,500,000
h. Memorial Science Building	
Agency Fund	800,000
i. University Building	
Agency Fund	2,186,000

j. Roark Building Renovation		
Agency Fund	500,000	
k. Case Hall		
Agency Fund	152,500	
l. Energy Management Expansion		
Agency Fund	500,000	
m. Gibson Building		
Agency Fund	500,000	
n. Pedestrian Overpass		
Agency Fund	545,000	
o. Property Acquisitions		
Agency Fund	1,100,000	
2. Kentucky State University		
a. Blazer Library Addition/Annex Renovation		
General Fund	2,850,000	
b. Hathaway Hall		
General Fund	700,000	
c. Rosenwald Building Renovation		
General Fund	400,000	
d. Chiller Addition Central Plant		
General Fund	350,000	
e. Bell Gymnasium Renovation		
General Fund	350,000	
f. North Campus Roads/Parking		
General Fund	125,000	
g. Conversion of Old Heating Plant to Welding Shop		
General Fund		225,000
h. South Campus Roads, Parking, and Walkways		
General Fund	250,000	
i. Handicapped Access		
General Fund	200,000	

j. Russell Court Apartments—HVAC Upgrade	
General Fund	125,000
k. Roof Repairs	
General Fund	75,000
l. Maintenance Building/Warehouse—HVAC Upgrade	
General Fund	50,000
m. Hathaway Hall Repainting	
General Fund	80,000
n. Alumni House HVAC Upgrade and Interior Maintenance	
General Fund	25,000
3. Morehead State University	
a. Roof Repairs/Replacement	
Bond Fund	1,020,000
b. Air Conditioning System Repair	
Bond Fund	445,000
c. Fire Safety	
Bond Fund	200,000
d. Boiler Controls Repair	
Bond Fund	245,000
e. Water Treatment Plant Renovation	
Bond Fund	255,000
f. Energy Management	
Bond Fund	225,000
g. Handicapped Accessibility	
Bond Fund	220,000
h. Campus Resurfacing/Repairs	
Bond Fund	240,000
i. Fields Hall Renovation	
Agency Fund	323,000
j. Thompson Hall Renovation	
Agency Fund	2,800,000

k. Artificial Surface Installation		
Agency Fund		850,000
4. Murray State University		
a. Industry/Technology Building		
Bond Fund	12,500,000	
b. Old Fine Arts Renovation		
Agency Fund	1,100,000	
c. Blackburn Science Roof		
Agency Fund	295,000	
5. Northern Kentucky University		
a. Applied Science/Technology Center		
Bond Fund	10,000,000	
b. Communications Network		
Agency Fund	386,000	
c. Library Mechanical Improvements		
Agency Fund	350,000	
d. Landrum Hall Drainage		
Agency Fund	273,000	
e. Outdoor Recreational Facility		
Agency Fund	455,000	
f. Energy Conservation Nunn Hall		
Agency Fund	226,000	
g. Regents Hall Refurbish		
Agency Fund	195,000	
6. University of Kentucky Community College System		
a. Lexington—Academic Technical Building		
Bond Fund	3,600,000	
b. Elizabethtown—Academic Technical Building		
Bond Fund	3,600,000	
c. Hazard—Technical Learning Resource Center		
Bond Fund	2,900,000	

d. Prestonsburg—Technical Learning Resource Center		
Bond Fund	2,900,000	
e. Madisonville—Academic/Auditorium Building		
Bond Fund	2,400,000	
f. Owensboro—New Campus		
Bond Fund	12,500,000	
g. Jefferson DT—Broadway Building Renovation Phase I		
Agency Fund	375,000	
h. Southeast—Newman Hall Renovation		
Agency Fund	300,000	
i. Jefferson DT—Broadway Building Renovation Phase II		
Agency Fund		375,000
j. Southeast—Falkenstein Hall		
Agency Fund		275,000
7. University of Kentucky Main Campus		
a. Robotics Facility		
Bond Fund	10,000,000	
b. Patterson Tower Fire Safety		
Agency Fund	725,000	
Bond Fund	1,050,000	
Total	1,775,000	
c. Coal Boiler Addition		
Agency Fund	5,500,000	
d. Clinic Wing Fire Safety		
Agency Fund	500,000	
e. Roof Repairs		
Agency Fund	500,000	
f. Road and Sidewalk Repairs		
Agency Fund	250,000	
g. Building Exterior Repair		
Agency Fund	400,000	

h. Alumni Gym Life Safety		
Agency Fund	255,000	
i. Fraternity Life Safety		
Agency Fund	475,000	
j. Patterson Hall Plumbing		
Agency Fund	350,000	
k. Hospital Renovation Phase I Continuation		
Agency Fund	1,350,000	
l. Barker/Gillis Windows		
Agency Fund	220,000	
m. Ag Science North Fume Hoods		
Agency Fund	240,000	
n. Diagnostic Services Upgrade Phase I		
Agency Fund	500,000	
o. Ambulatory Surgical Services Center		
Agency Fund	1,200,000	
p. Hospital Renovation Phase I, 2nd Floor Clinic		
Agency Fund	300,000	
q. Utilities Upgrade II		
Agency Fund	200,000	
r. Medical Science Research Laboratory Restoration Phase I		
Agency Fund	262,000	
s. Research Fume Hoods Phase III		
Agency Fund	400,000	
t. Student Hospital Auditorium Renovation		
Agency Fund	300,000	
u. Fire Alarm System		
Agency Fund		200,000
v. Engineering Quadrangle Renovation		
Agency Fund		3,000,000

w. Diagnostic Services Upgrade Phase II		
Agency Fund		250,000
x. Bowman/Breckinridge Renovation		
Agency Fund		1,500,000
y. Stroke Unit		
Agency Fund		500,000
z. Agricultural Sciences Greenhouses Renovation		
Agency Fund		300,000
aa. Old Pharmacy Building Renovation		
Agency Fund		2,500,000
bb. Medical Science Research Laboratory Restoration Phase II		
Agency Fund		210,000
cc. Hospital First Floor Refurbishing		
Agency Fund		300,000
dd. Nuclear Medicine/Radiation Medicine Upgrade		
Agency Fund		500,000
ee. Clifton Avenue Recreation Renovation		
Agency Fund		200,000
ff. Gaines Center Renovation		
Agency Fund		450,000
gg. Hospital Renovation Phase III		
hh. Hospital Expansion Phase II		
8. University of Louisville		
a. Student Activities Center		
Agency Fund	1,000,000	
Bond Fund	19,700,000	
Total	20,700,000	
b. Kersey Library Expansion		
Agency Fund	1,425,000	
c. K, C, G Renovation		
Agency Fund	800,000	

d. Animal Care Facility		
Agency Fund	3,235,800	
e. Theatre Arts Building Renovation		
Agency Fund	435,000	
f. Faculty and Staff Development Center		
Agency Fund		225,000
g. Carmichael Building Renovation		
Agency Fund	500,000	
h. Schneider Hall		
Bond Fund	350,000	
9. Western Kentucky University		
a. Academic/Athletic #1 Roof		
Bond Fund	330,000	
b. Air Conditioning Units Replacement		
Bond Fund	440,000	
c. Academic/Athletic #2 Structural Repairs		
Bond Fund	200,000	
d. Underground Steam/Electrical Distribution Lines Replacement		
Bond Fund	700,000	
e. Life Safety Improvements		
Bond Fund	500,000	
f. Coal Boilers #1 and #2 Replacement		
Bond Fund	978,000	
g. Asbestos Removal		
Agency Fund	40,000	
Bond Fund	360,000	
Total	400,000	
h. Jones Jaggers Roof Replacement		
Bond Fund	155,000	
i. Air Conditioning Unit Replacement		
Bond Fund	440,000	

j. Ivan Wilson Humidity Control		
Bond Fund	235,000	
k. Downing University Center Roof		
Agency Fund	63,000	
Bond Fund	162,000	
Total	225,000	
l. Environmental Science/Technical Building Roof		
Bond Fund	180,000	
m. Helm-Cravens Humidity Control		
Bond Fund	220,000	
n. Chemistry Lab Renovation		
Agency Fund	1,430,000	
o. Hazardous Materials Storage		
Agency Fund	197,000	
p. Instructional Television Station		
Agency Fund	275,000	
q. Alteration of Dairy Barn		
Agency Fund		210,000
r. Snell Hall Renovation/Reconstruction		
Agency Fund		1,263,000

Bond authorization supported by General Fund appropriations for the projects listed below are authorized in the first year of the biennium so that preliminary work on the projects may proceed. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

Murray State University:	
Industry and Technology Building	12,500,000
Northern Kentucky University:	
Applied Science/Technology Center	10,000,000
University of Kentucky:	
Robotics Facility	10,000,000
Community College System:	
Lexington: Academic-Technical Building	3,600,000

Elizabethtown: Academic-Technical Building	3,600,000
Hazard: Technical Learning Resource Center	2,900,000
Prestonsburg: Technical Learning Resource Center	2,900,000
Madisonville: Academic Auditorium Building	2,400,000
Owensboro: New Campus	12,500,000

University of Louisville:

Student Activities Center	12,800,000

EQUIPMENT LISTING

10. Eastern Kentucky University

Funding for the following Eastern Kentucky University equipment purchases will be from Agency Funds.

a. Planetarium Equipment	950,000
b. Academic Computing	185,000
c. Computer Numerical Control Turning Center	
d. CAD Drafting System	80,000
e. Technovate Pneumatic Unit	
f. Pool Filter	75,000
g. Diesel Buses	

11. Kentucky State University

Funding for the following Kentucky State University equipment purchases will be from Agency Funds.

a. Two Buses	200,000
b. Office Furnishings—Agriculture Research Facility	132,000

12. Morehead State University

Funding for the following Morehead State University equipment purchases will be from Agency Funds.

a. Word Processing System	85,000
b. Computer Equipment	220,000
c. Industrial Robots	247,000
d. Computer Numerical Control Machining Center	150,000
e. Library Computer System	226,000
f. Bulldozer	50,000

g. Tour Bus	140,000	
h. Garbage Truck	50,000	
i. Minor Equipment	95,000	
j. Telephone System	400,000	400,000
k. Computer Numerical Control Lathe	125,000	
l. Administrative Computing	200,000	200,000
m. Dishwasher		

13. Murray State University

Funding for the following Murray State University equipment purchases will be from Agency Funds.

a. Direct Access Storage Devices (4)		131,000
b. Communication Sub System		75,500
c. Microcomputer Laboratory	113,000	245,000
d. Computer Graphics Terminal (3)		60,900
e. Scanning Electronic Microscope		61,800
f. Scanning Digitizer (Microdensitometer)		90,000
g. Equipment for IBM PC-AT Laboratory		92,000

14. Northern Kentucky University

Funding for the following Northern Kentucky University equipment purchases will be from Agency Funds.

a. Offset Press	17,000	
b. Mainframe Computer	899,500	
c. Minicomputer Upgrade	406,800	
d. Library Compact Shelving	150,000	
e. Office Automation	328,500	
f. Touch-Tone Data Entry Response System	96,700	
g. CAD/CAM/SMF	352,500	
h. Xerox 9900 VR Lease Purchase		

15. University of Kentucky

Funding for the following University of Kentucky equipment purchases will be from Bond Funds, except as noted. Bond authorizations supported by General Fund appropriations for the equipment listed below are authorized in the first year of the biennium so that there will be no unnecessary delay in equipment acquisition. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

Metal: Surface Area—Pore Volume Analyzer	80,000	

- EE: Triple Monochrometer Spectrometer	140,000
- Metal: Electron Beam Furnace	80,000
- AES: Controlled Environment Rooms	102,000
- Math: Superminicomputer	
Agency Fund	300,000
Bond Fund	7295,000
Total Fund	595,000
- Math: LISP System II	52,000
- Phys: Upgrade of HP A900	70,000
- Phys: Computer (Ridge Compatible)	50,200
- AES: Plasma Emission Spectrograph	75,000
- AES: Transmission Electron Microscope	114,000
- AES: X-ray System	50,000
- Metal: Melt Spinning Apparatus	85,000
- EE: Array Processor and Minicomputer	80,000
- EE: Microwave Plasma Semiconductor	135,000
- Metal: Photoelectron Spectrometer	
Agency Fund	300,000
Bond Fund	300,000
Total	600,000
- Math: LISP System	52,000
- EE: Minicomputer	50,000
- EE: Spectrometer	60,000
- Geol: Microprobe Electron Microscope	
Agency Fund	179,000
Bond Fund	250,000
Total	429,000
- Metal: 200 KEU Scanning Trans EM	
Agency Fund	350,000
Bond Fund	350,000
Total	700,000

- Path: Zeiss IBAS Image Analysis Processor	100,000
- OB/GYN: Array Analysis, Processing	50,000
- PHR: Minicomputer and Associated Software, DB, etc.	165,000
- PHR: 90 MH2 NMR Spectrometer	126,100
- Prev.M: Cryolect	135,000
- BCH: ABI Olegonucleotide Synthesizer	50,000
- BCH: ABI Peptide Synthesizer	80,000
- ANA: Video Image Analyzer	75,000
- MMI: FACS 420 w/2nd Laser Upgrade	50,000
- MC: Beckman Metolobic Cart	50,000
- MC: BD Analyzer for Molecular Biology	110,000
- Card: Color Flow Doppler Unit	150,000
- Med: Dual Photon Absorption Unit	65,000
- MC: Imaging System	50,000
- PHR: Super High Performance Liquid Chromatographic System	55,100
- OB/GYN: Real Time Flow Cytometry Processor	75,000
- PHR: 300 MH2 NMR Spectrometer	400,300
- ANA: Electron Microscope	195,000
- BCH: Gas-Phase Protein Sequencer	100,000
- MC: Animal Surgery Fluoroscopic Unit	300,000
- PHR: Fluoroscopic X-Ray Instrument	90,100
- PHR: Bioreactor for Mammalian Cell Culturing with Instrumentation	115,200
- PHR: Analytical Preparative HPTLC System	50,100
- Med: Pilot Size Freeze Dryer	90,000
- Med: Gamma 500 Laser Microprobe Mass Analyzer	300,000
- AEN: Infrared Imaging System	80,000
- MA: LISP PROLOG Machine	100,000
- BIO: Walk-in Enviromental Control Rooms (2)	80,000
- GLY: Updating X-Ray Diffraction Equipment	125,000
- BIO: Atomic Absorption Spectrophotometer and Chloridometer	100,000

- CHE: 400 MHz NMR	500,000
- CHE: Intensified Diode Array	56,500
- WGRL: Biomedical Image and Signal Processing System	160,242
- GYL: Seismic Array	78,000
- ENGR: AT&T/Harris Upgrade	350,000
- Academic Equipment	2,725,001
- Academic Equipment	2,725,002
- CC: Scanning EM	350,000
- CC: Transmission EM	400,000
- MMI: Sterilization and Cleaning System	65,000
- SBRC: Fluorescence Activated Cell Sorter Analyzer	70,000
- BCH: Microprocessor Based Spectrapolarimeter	60,000
- OBG: Autoclave	50,000
- OPH: YAG Laser	50,000
- MMI: 2-D Gel Scanner/Computer Analysis	50,000
- RSD: Universal Testing Machine	92,000
- CNU: Amino Acid Analyzer (Beckman)	50,000
- SBRC: Philips Electron Microscope	250,000
- ENGR: CAD/CAM (Computer)	500,000
- Metal: Analytical Balance	70,000
- EE: Programmable Frequency Synthesizer	65,000
- EE: Microwave Programmable Receiver	77,000
- BIO: Varian HPLC/Amino Acid Analyzer	70,000
- CHE: Field Ionization/Field Desorption Ion Source	60,000
- PHYS: Klystron Bunched Terminal	260,000
- AEN: Laser Doppler Fluid Turbulence System	40,000
- Med: BD Facts 4—Fluoroscopic Activated Cell Sorter	130,000
- ASC: Energy Dispersive	60,000
- ENT: Oligo (DNA) Synthesizer	50,000
- EM: Thermovision System (Infrared Temperature Measure)	57,000
- BIO: Sterilization and Cleaning System	75,000

- BIO: Respiratory Mass Spectrometer	50,000
- BIO: Update CAD4 X-Ray Diffractometer to DEC 11/237	50,000
- VS: AGA Thermovision Basic Medical Package and Digital Image System	60,500
- WGRL: Cardiovascular Data Acquisition System	52,255
- ASC: Bechman Edman Sequencer	86,000
- ENT: Protein Sequencer	100,000
- MACS: Intelligent Terminals Workstation	70,000
- HPR: High Speed Video System	55,000
- SBRC: Leitz Fluoroscence Microscope with Vario-Orthamate Camera	50,000
- PHYS: Polarized Ion Source	300,000
- BCH: Applied Biosystems Bas Phase Sequencer	120,000
- CHE: Argon Laser	85,000
- PM: Microwave Plasma Emission Detector	80,000
- CHE: VUV Photoelectron Spectrometer	80,000
- OBG: Liquid Chromatograph	100,000
- BIO: Flow Sytometer/Cell Sorter	325,000
- MMI: Upgrade of Cell Analysis and Sorting Facilities	100,000
- ENT: Amino Acid Analyzer	74,900
- PM: Mass Spectrometer	120,000
- HORLA: Irrigation System	75,000
- OBG: Flow Cytometer	250,000
- FOR: 930 Wheel Loader	73,500
- Med: Laser Catheter	130,000
- CHE: Mass Spectrometer	
Agency Fund	325,000
Bond Fund	325,000
Total	650,000
- BCH: X-Ray Chrystalography Equipment	500,000
- VS: Transmission Scanning Electron Microscope	
Agency Fund	325,000

Bond Fund	400,000
Total	725,000
- Med: Angiographic/Computer Equipment	250,000
- MGSC: Vax 11/750 and Related Equipment	500,000
- PHY: Stainless Steel Accelerator Tube	75,000
- Med: Pulse Simulator	50,000
- ENT: Gas Chromatogram Mass Spectrometry System	50,000
- CNU: AA Spectrophotometer	55,000

Funding for the following University of Kentucky equipment purchases will be from Agency Funds.

- Lib: Auto Circulation System	104,000
- PPD: Energy Management System	413,000
- MCPPD: Energy Management System III	100,000
- Dent: Patient Billing Minicomputer	320,000
- Med CS: Wang VS 300	195,700
- CC: Data Communications Equipment	70,000
- CC: Data Communications Network	350,000
- CC: Mainframe Computer	925,000
- CC: Disk Storage 3081K	350,000
- Cancer: Minicomputer and Software	262,140
- ENGR: Computer Upgrade	1,000,000
- Med CS: Systems Methodology and Security System	50,000
- Cancer: MRI Unit BAX XI Computer	510,000
- Cancer: MRI Helium Recovery System	90,000
- CC: Computer Disk Storage	120,000
- Bus Svcs: Voice Data Communications System	5,466,300
- CES: Closed Caption TV Delivery System	150,000
- CES: Minicomputer	100,000
- Arch: Computer for Graphics Processing	85,000
- ANA: Morgue Equipment	150,000
- Med: Perinatal Laboratory Equipment/OB-GYN	150,000
- Prev M: Equipped Medical Van	163,000

- Purch: Minicomputer	59,000	
- Bus Svcs: Computer Upgrade	210,000	
- B&E: Minicomputer System	103,000	
- CC: Optical Reader	110,000	
- Print/Dupl: Computer Systems	58,000	
- Cancer: ABI, Peptide Synthesizer	80,000	
- PPD: Tandem Bucket Trucks/Boom	80,000	
- PPD: Garbage/Compactor Truck	100,000	
- PPD: Backhoe Loader	75,000	
- Print: Offset Printing Press	180,000	
- UExt: Computer System	106,000	
- OSPA: Computer Upgrade	70,000	
- WBKY: Transmitter w/Antenna and Lines	130,100	
- CC: One Way Video	1,000,000	
- CC: KEWS Upgrade	500,000	
- CC: Packet Switching	200,000	
- MC: Multi-Channel Atomic Absorption	85,000	
- PHR: Power X-Ray Diffractometer System	58,600	
- PHR: High Performance Thin-Layer Chromatographic System	50,100	
- BCH: Micro Controlled Peptide Synthesizer	80,000	
- Med CS: Broad Band Communications Network	325,000	
- BCH: 500MHz Nuclear Magnetic Resonance Spectrometer—Varian	550,000	
- PPD: Energy Management System		416,000
- MCPPD: Energy Management System IV		100,000
- CC: Computer Disk Storage		150,000
- CC: Laser Printer		500,000
- CC: Data Communications Equipment		70,000
- Cancer: 4.7 Telsa Animal Imaging System (MRI)		927,000
- CCC: Data Communications Network		250,000
- Metal: Surface AnalysisSystem		150,000

- Barnay Chair		77,000
- Grad: Minicomputer Upgrade		50,000
- MC: Video Attachment for Biplane Fluoroscope		100,000
- Pers: Minicomputer		56,000
- Arch: CADD System		300,000
- PPD: Construction Boom Lift		100,000
- PPD: Garbage/Compactor Truck		105,000
- FA: Lighting Board and Dimmer System		100,000
- OIR: Videotape Record/Edit Package		
- CC: Array Processor for Mainframe		600,000
- CC: One Way Video		1,000,000
- CC: TV Surveillance		100,000
- Chem: Superminicomputer		577,000
16. University of Kentucky Hospital		
a. Radiation Med Simulator	385,000	
b. Blood Bank System Upgrade	120,000	
c. Three 3380-type Disk Drives for Storage	177,200	
d. Patient Care System Base Package	350,000	
e. Add Capacity—IBM 4381	243,500	
f. IBM 3380 Disk Drives for Data Storage	338,000	
g. Mammographic Unit	110,000	
h. Blood Hemotology Automatic Analyzer	193,000	
i. Heart Pump	65,000	
j. OPTH Microscope	85,000	
k. Radiation Medicine Unit	800,000	
l. Cobalt Replacement	70,000	
m. Microbiology Identification System	55,000	
n. Fluoroscopy Unit	535,000	
o. DR Trauma Unit	190,000	
p. Radiographic Unit	160,000	
q. Fluoroscopic C-Arm	235,000	

r. Electronic Imaging System	400,000	
s. Digital Radiographic Unit	600,000	
t. DR Radiographic Unit	175,000	
u. Electrophysiology Equipment	285,000	
v. Stroke Unit Equipment	200,000	
w. Cryo Unit	100,000	
x. Krypton Laser	130,000	
y. Ultrasound Unit	150,000	
z. Echocardiology Equipment	200,000	
aa. Neonatal Monitor System	78,000	
bb. Laser Printer to print all forms	202,000	
cc. IBM 3705 Type Communications Controller	51,500	
dd. Dual Lab Processor	152,000	
ee. Off-site Backup Computing Power	50,000	
ff. Hyperbaric Chamber	75,000	
gg. Evoked Potential System	75,000	
hh. Digit Viewer System	62,000	
ii. Magnetic Resonance Imaging		2,600,000
jj. Operating Room Table		90,000
kk. Gas Sterilizer		85,000
ll. Operating CT Scanner		190,000
mm. Emergency Medicine Helicopter		1,600,000
nn. Radiology System		75,000
oo. Chemistry Analyzer		115,000
pp. Fluoroscopic Unit		605,000
qq. 3083-like Computer System		1,705,000
rr. 3380-like Disk Drives		338,000
ss. Breast Imaging Unit		145,000
tt. Chest Unit		160,000
uu. Automated Perimeter		100,000
vv. Radiation Medicine Unit		800,000

ww. Cancer: Neutron and Implant Therapy Equipment		400,000
xx. Off-site Emergency Computing Resource		50,000
yy. Automated Drug Analyzer		56,000
zz, Radiographic Unit		160,000
aaa. Computerized Tomography Scanner		1,435,000
bbb. Immuno Chemical System		165,000
ccc. Electronic Imaging System		240,000
ddd. Microscope System		75,000
eee. Computerized Vestibular Testing System		90,000
fff. Nuclear Medicine Camera		245,000
ggg. Brain Electrical Activity Mapping System		132,000
17. University of Kentucky Community College System		
a. Minicomputers (3)	450,000	
b. Energy Management System (Jefferson DT)	130,000	
c. Energy Management System (Ashland)	100,000	
d. Data Communications System (Ashland)	95,000	
e. Minicomputers (3)		450,000
f. Microwave/Data Communications Link		150,000
g. Energy Management System (Madisonville)		100,000
h. Energy Management System (Jefferson SW)		75,000
i. Data/Communication System (Elizabethtown)		95,000

18. University of Louisville

Funding for the following University of Louisville equipment purchases will be from Agency Funds.

a. CPU Memory Upgrades (3)	100,000	200,000
b. Direct Access Storage Devices (2)	200,000	200,000
c. CPU Upgrade		550,000
d. Data Communications Network		350,000
e. Laser Printer		250,000
f. Optical Character Scanner		75,000
g. Computer Output Microfiche System		130,000
h. Graphics Plotter		75,000

i. Super Minicomputer	250,000	
j. Array Scientific Processor		350,000
k. Computer Data Acquisition System (2)	75,000	75,000
l. Digital Computer System	218,200	
m. Molecular Graphics System	100,600	
n. Computer Control Laboratory Unit	96,000	
o. Hybrid Computer	104,000	
p. Hardware for Touchtone Registration	127,100	
q. Human Movement Recording System		85,000
r. Scanning Auger Spectrometer		250,000
s. Automated Packed Column Absorption Unit		60,000
t. Transmission Electron Microscope		84,700
u. Learning Laboratory System		90,000
v. Scanning Electron Microscope		50,000
w. Gas Chromatograph/Mass Selective Detector		67,000
x. Electronic Microprobe (WDX System)	65,000	
y. YAG Laser		50,000
z. Nuclear Magnetic Resonance Spectrometer		97,000
aa. Laser-Raman Spectrophotometer		58,000
bb. Scanning Cytophotometer		50,200
cc. Metallurgical Microscope		60,000
dd. Ultrasonic Surgical Aspirator		60,000
ee. Magneticircular Dishroism Spectrophotometer		74,500
ff. Mobile Hyperthermia System		116,200
gg. Elemental Analyzer		52,200
hh. Animal Cell and Specimen Irradiator		112,200
ii. Edax Quantitative Unit		75,000
jj. Flow Cytometer		120,000
kk. X-Ray Diffraction Unit		80,000
ll. 47 Passenger Bus		150,000
mm. Gas Chromatograph/Mass Spectrometer/Data System		175,000

nn. Central Processing Unit (CPU)	650,000	650,000
oo. Telecommunications System	700,000	

19. Western Kentucky University

Funding for the following Western Kentucky University equipment purchases will be from Agency Funds.

a. Minor Equipment Pool	900,000	
b. Real Time Image Processor	62,000	
c. Hughes Liquid Crystal Lt. Valve	62,000	
d. Copper Laser	60,000	
e. Nuclear Magnetic Resonance Spectrometer	112,500	
f. Optical Character Reader	14,400	
g. Computer Processor	310,000	
h. Computer Storage Control	60,000	
i. Local Area Network	152,300	
j. Computer Processing Unit and Related Equipment		498,600

H. CABINET FOR HUMAN RESOURCES

For capital construction projects displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Administration and Program Support		
a. Miscellaneous Projects		
General Fund	1,100,000	
Investment Income		1,000,000
b. L & N Building Bond Fund (1985-86—$4,500,000)		
2. Department for Mental Health/Mental Retardation		
a. Outwood Intermediate Care Facility—Renovation—Sewage Treatment Plant		
General Fund	250,000	
b. Central State Hospital—Secure Psychiatric Facility		
General Fund		2,250,000
c. Eastern State Hospital—Recreational/Activities Building		
Bond Fund (1985-86—$167,100)		
Agency Fund (1985-86—$437,900)		
d. Eastern State Hospital—Kitchen and Dining Room Building Bond Fund (1985-86—$1,250,000)		

I. JUSTICE

For the capital construction project displayed in this section as a General Fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriations.

1. State Police

a. Heating Cooling System—Information Services Building		
Investment Income	450,000	
General Fund	50,000	
Total	500,000	
b. Bell Jet Ranger Helicopter		
Investment Income	1,000,000	
c. Minor Projects		
Investment Income	100,000	100,000
d. Energy Dispersive X-Ray		
Investment Income	195,000	
e. Gas Chromatograph/Mass Spectrometer		
Investment Income	325,000	
f. X-Ray Diffraction Apparatus		
Investment Income	185,000	

J. LABOR

For the major equipment purchase displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Department of Worker's Claims

a. Special Fund Computer	
Agency Fund	83,000

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

For the capital construction project displayed in this section as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. State-Owned Dam Repair	
Investment Income	1,000,000

The above appropriation shall not be used to repair dams owned by the Department of Fish and Wildlife Resources.

2. Kentucky Abandoned Lands—Reclamation Program		
Federal Fund	50,400,000	36,710,000
3. GC/Mass Spectrometer Investment Income	247,000	
4. Nature Preserves Acquisition Fund		
Agency Fund	45,000	45,000

L. PUBLIC PROTECTION AND REGULATION

For the major equipment purchase displayed in this section as agency fund or general fund supported projects it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Department of Insurance		
a. Computer		
Agency Fund	277,900	272,900
2. Public Service Commission		
a. Watthour Standard Testing System		
Agency Fund	88,100	

M. TOURISM

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Parks		
a. Miscellaneous Major Maintenance		
Bond Fund	800,000	
General Fund	2,400,000	500,000
Investment Income		2,700,000
Total	3,200,000	3,200,000
b. Kenlake Lodge—Plumbing		
General Fund	50,000	250,000
c. Lake Cumberland Holodome		
General Fund	192,000	1,085,000
d. Jenny Wiley Meeting Room—Programming		
General Fund		384,000

e. Greenbo Meeting Room—Programming		
General Fund		100,000

The following projects are authorized to be funded from the Department of Parks appropriation of maintenance funds and are not to exceed $230,000 per project: Green River Campground Expansion, E.P. Tom Sawyer Campground, and Lake Malone Campground Expansion.

2. Kentucky Horse Park		
a. Miscellaneous Major Maintenance		
Investment Income	200,000	200,000
b. Master Plan—Development of Show Facilities		
Investment Income	100,000	
c. Covered Arena Completion		
General Fund	1,617,000	
3. State Fair Board		
a. Major Maintenance, Renovation, and Repair Projects under $200,000		
Investment Income	500,000	500,000
Agency Fund	250,000	250,000
Total	750,000	750,000
b. Roof Coating for Coliseum and East and West Wings and Broadbent		
Investment Income	900,000	
c. Additional Lighting and Rewiring—East and West Wings and Pavilion		
General Fund	225,000	
d. Waterproof Stadium, Coliseum and East and West Wings		
General Fund	250,000	
e. Replace Stadium Artificial Surface and Add Drainage System		
General Fund	1,770,000	
f. Garbage Packer		
Agency Fund	125,000	
g. Boom Truck		
Agency Fund		
4. Fish and Wildlife Resources		
a. Miscellaneous Minor Projects		
Agency Fund	596,500	478,500

b. Land Acquisition		
Agency Fund	200,000	
c. Minor Clark Fish Hatchery Renovations		
Agency Fund	100,000	500,000

N. TRANSPORTATION

For the capital construction projects displayed in this section as Road Fund supported projects, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Bourbon County Maintenance Facility		
Road Fund	350,000	
2. Jessamine County Maintenance Facility		
Road Fund		389,900
3. Interactive Graphics		
Road Fund	485,000	
4. Owsley County Maintenance Facility		
Road Fund	350,000	
5. Lyon County Weigh Station		
Road Fund	1,500,000	
6. Boyd County Weigh Station		
Road Fund		1,500,000
7. Pike County Materials Lab		
Road Fund	200,000	
8. Knox County Salt Storage Dome		
Road Fund	90,000	
9. Wolfe County Salt Storage Dome		
Road Fund	90,000	
10. Warren County Salt Storage Dome		
Road Fund	90,000	
11. Rowan County Salt Storage Dome		
Road Fund	90,000	
12. Shelby County Salt Storage Dome		
Road Fund	90,000	

13. Russell County Salt Storage Dome		
Road Fund	90,000	
14. Grant County Salt Storage Dome		
Road Fund	90,000	
15. Central Office Materials Lab Renovation		
Road Fund	200,000	
16. Infrared Spectrophotometer		
Road Fund	50,000	
17. Freeze/Thaw Chamber		
Road Fund	60,000	
18. X-Ray Fluorescence Instrument		
Road Fund		125,000

In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any General Fund appropriated debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund. Those projects set forth under the subheading "higher education" are subject to the action and approval of the Council on Higher Education and subject to approval of the Finance and Administration Cabinet. The provisions of KRS 45.750 through 45.990 notwithstanding, it is the intent of the General Assembly that capital construction projects at institutions of higher education involving no state or federal funds, may be authorized between Regular Sessions of the General Assembly, providing that such projects receive prior approval from both the Council on Higher Education and the Secretary of the Finance and Administration Cabinet, and that the Capital Construction and Equipment Purchase Oversight Committee receives prior notification.

Roof repair or replacement projects shall be eligible for Emergency Repair, Maintenance, and Replacement Fund allotments, subject to the provisions of KRS 45.780.

Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440-56.720. Administration of the Economic Development Bond program by the Secretary of Commerce is subject to the guidelines contained herein: 1) Project selection criteria are to be developed by the Secretary of Commerce. The criteria shall include but not be limited to such issues as: a project's job creation and/or job retention potential, degree of public and/or private local involvement, and potential project payback and/or contribution in retiring the associated debt obligation. 2) Projects of state agencies are not eligible for funding from this source unless expressly provided for in the appropriations act. 3) Project selection shall be documented when presented to the Secretary of Finance. Included in the documentation shall be the rationale for selection and expected economic development impact. 4) Following approval by the Secretary of Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the Commerce Cabinet to the next regularly scheduled Capital Construction and Equipment Purchase Oversight Committee meeting for information and review under the provisions of KRS 45.750-45.800.

Inasmuch as the identification of specific projects in a variety of areas of the State Government cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly, to appropriate amounts for specific purposes to projects which are not individually identified herein in the following areas: Repair of State-Owned Dams, Economic Development Projects, Handicapped Access, Fire and Life Safety, and Asbestos Litigation and Abatement projects. Any such projects estimated to cost over $200,000 and equipment estimated to cost over $50,000 shall be reported to the Capital Construction and Equipment Purchase Oversight Committee. All monies transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

There is hereby created an Asbestos Litigation and Abatement account in the Finance and Administration Cabinet. The Asbestos Litigation and Abatement account shall be for the purpose of depositing any funds received as a result of litigation involving the Commonwealth of Kentucky and asbestos manufacturers. Any funds received from a judgment or settlement from this litigation shall be used for all litigation support costs incurred as a result of this litigation and for cost of asbestos abatement in any building owned by the Commonwealth of Kentucky. In addition, all funds hereby identified in the Finance and Administration Cabinet 1986-88 appropriations expressly for the purpose of asbestos abatement shall be available for expenditure from the Asbestos Litigation and Abatement account.

PART VI

GENERAL PROVISIONS

1. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1986, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500 and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Finance and Administration Cabinet, and the Departments of Treasury and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs.

4. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act except as provided by Chapters 12, 42, 56, 152, 177, and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed, unless otherwise provided by this Act.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation and legislative and executive records.

6. Any General Fund appropriation made herein in anticipation of a lack, loss, or reduction of Federal funds shall lapse to the General Fund to the extent such Federal Funds otherwise become available.

7. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within seventy-five days upon adjournment of the 1986 General Assembly, to prepare a final budget document based upon the Executive Budget proposal as enacted by the 1986 General Assembly as well as other acts which provide appropriations for the 1986-88 biennium and based upon supporting documentation and legislative records as considered by the 1986 General Assembly. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and such other fiscal data and commentary considered necessary by the Governor's Office for Policy and Management for budget execution and oversight. The enacted budget document and any adjustments thereto approved by the Governor's Office for Policy and Management as provided in each part of this Act or by law, and any supporting documents, shall be communicated to the Interim Joint Committee on Appropriations and Revenue on a regular basis.

8. In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any appropriated General Fund debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund.

9. In the event that funds become available to the Commonwealth pursuant to settlements of litigation brought by the U.S. Department of Energy for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls were in effect, and inasmuch as the identification of specific amounts cannot be ascertained with absolute certainty at this time and fifty percent (50%) of any such funds received are hereby appropriated to the Cabinet for Human Resources and the remaining fifty percent (50%) of such funds are hereby appropriated to the Energy Cabinet to be expended for the purposes permitted by federal law or judicial decrees. Both the Cabinet for Human Resources and the Energy Cabinet shall submit to the Governor and to the Legislative Research Commission a detailed report identifying the specific purposes and amounts to be expended prior to the submission of a plan to the U.S. Department of Energy. In addition, a quarterly report shall be made to both the Governor's Office for Policy and Management and the Legislative Research Commission regarding the actual expenditures of these funds.

10. It is the intent of the General Assembly that the Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

11. A Budget Reserve Trust Fund is hereby established. There is appropriated from the General Fund, $50,000,000 for fiscal year 1986-87 and $50,000,000 for fiscal year 1987-88 to the Budget Reserve Trust Fund.

These funds shall be used in the event actual General Fund receipts during the 1986-87 fiscal year or the 1987-88 fiscal year are not sufficient to meet the General Fund appropriation levels authorized by this Act or other general biennial appropriations bills. In addition, allotments from the Budget Reserve Trust Fund may be made for items deemed to be emergency expenditures previously classified as Necessary Government Expenses.

No allotment or expenditure from the Budget Reserve Trust Fund shall be made except upon approval of the Governor of the Commonwealth. The Secretary of the Finance and Administration Cabinet shall communicate any allotment or expenditure from the Budget Reserve Trust Fund, in writing, to the Interim Joint Committee on Appropriations and Revenue.

Any unexpended balance remaining at the close of the 1986-87 fiscal year, shall not lapse, but shall continue into the 1987-88 fiscal year.

It is the intent of the General Assembly that the Budget Reserve Trust Fund established herein shall serve as the contingency plan for the 1986-88 budget pursuant to KRS 48.150.

12. There is hereby established a General Fund surplus expenditure plan for the Executive Branch of government for fiscal year 1986-87 and fiscal year 1987-88, pursuant to KRS 48.140. This plan is for the expenditure of excess General Fund revenue receipts up to two and one-half percent (2.5%) in excess of the revenue receipts estimate for the General Fund as determined by subsection (3) of KRS 48.120. This General Fund surplus expenditure plan provides for additional funds for non-recurring expenditures for Executive Branch offices, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and/or other state supported authorities for which an appropriation was not made in this Appropriation Act, or for a program or service authorized by law for which an appropriation was not made or for which program was not fully funded.

Whereas General Fund revenue receipts are appropriated for the operation, maintenance, and support of Executive Branch agencies based on detailed estimates provided by the Revenue Cabinet in the amount of $2,997,840,000 in fiscal year 1986-87 and $3,199,220,000 in fiscal year 1987-88, therefore the General Assembly does hereby authorize the expenditure of excess receipts up to a maximum of $74,946,000 in fiscal year 1986-87 and $79,980,000 in fiscal year 1987-88 as provided in this General Fund surplus expenditure plan.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of each completed fiscal year, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess General Fund revenue receipts available for expenditure through the General Fund surplus expenditure plan. The amount of excess receipts available shall be determined after all allocations required by the Local Government Economic Assistance Fund pursuant to KRS 42.450 have been adjusted.

The Secretary of the Finance and Administration Cabinet is hereby authorized to direct the expenditure of these excess revenue receipts, for the purposes stated herein, subject to the following restrictions. First, in the event that appropriations which have been made to the Budget Reserve Trust Fund have been depleted in whole or in part, the Budget Reserve Trust Fund shall be restored to its original level of appropriation. Second, additional funds shall be provided for non-recurring capital construction, maintenance, major equipment items and/or other non-recurring capital outlay items, in an amount not to exceed $25,000,000, and for which an Executive Branch budget unit made a request for an appropriation but the appropriation was not made or fully funded in this Appropriation Act. Third, it is the intent of the General Assembly that the Secretary of the Finance and Administration Cabinet may direct the Secretary of the Transportation Cabinet to use Surplus Account funds to meet in whole or in part the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount authorized by the Transportation Cabinet pursuant to KRS 143.090.

13. Pursuant to KRS 48.130, there is hereby established a General Fund budget reduction plan for the Executive Branch of state government for fiscal year 1986-87 and fiscal year 1987-88. This plan shall provide for a reduction in the respective appropriations for the various Executive Branch budget units of State Government when projected revenue receipts accruing to the General Fund are estimated to be less than the final revenue estimates for the General Fund as determined by the official revenue estimate of the Secretary of the Revenue Cabinet of January 21, 1986, and as modified by the General Assembly.

All appropriation units and areas of the Executive Branch of state government shall be subject to the budget reduction plan. Monies in the Budget Reserve Trust Fund or the General Fund Surplus Account created by KRS 48.700 shall be applied toward a revenue shortfall in the General Fund. The itemized budget units to be affected by any additional reductions pursuant to KRS 48.130 shall be specified in the final budget memorandum.

The Committee Substitute to HB 398 is as follows:

HB 398, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ending June 30, 1986, and, including any funds pursuant to KRS 48.700 as of June 30, 1986, for the fiscal year beginning July 1, 1986, and ending June 30, 1987, and, including any funds pursuant to KRS 48.700 as of June 30, 1987, for the fiscal year beginning July 1, 1987, and ending June 30, 1988, the following sums, or so much thereof as may be necessary, for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Governor

1986-87	$2,677,800
1987-88	$2,993,400

Included in the above appropriation is $130,000 in fiscal year 1986-87 and $340,000 in fiscal year 1987-88 for the Governor's Office of Child Development. Also included in the above appropriation in each year of the biennium is $18,000 for the Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky as specified in KRS 64.710.

b. Secretary of the Cabinet

1986-87 .... $400,700

1987-88 .... $436,200

c. Governor's Office for Policy and Management

1986-87 .... $1,555,800

1987-88 .... $1,868,800

d. Governor's Office for Program Administration

1986-87 .... $329,100

1987-88 .... $354,500

e. State Planning Fund

1986-87 .... $500,000

1987-88 .... $500,000

The Governor is hereby authorized to expend funds for the improvement and advancement of governmental purposes and activities.

TOTAL—EXECUTIVE OFFICE OF THE GOVERNOR

1986-87 .... $5,463,400

1987-88 .... $6,152,900

2. LIEUTENANT GOVERNOR

1986-87 .... $496,400

1987-88 .... $503,400

Included in the above appropriation in each year of the biennium is $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Lieutenant Governor of Kentucky as specified in KRS 64.710.

3. SECRETARY OF STATE

a. General Operations

1985-86 .... $110,400

1986-87 .... $1,270,000

1987-88 .... $1,256,100

b. Restoration of Land Grant Books

1986-87	$44,000
1987-88	$44,000

TOTAL—SECRETARY OF STATE

1985-86	$110,400
1986-87	$1,314,000
1987-88	$1,300,100

4. BOARD OF ELECTIONS

1985-86	$145,200
1986-87	$1,187,000
1987-88	$1,238,000

Included in the above appropriation is $592,600 in fiscal year 1986-87 and $598,800 in fiscal year 1987-88 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.105). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 is hereby appropriated.

5. TREASURY

1986-87	$1,330,600
1987-88	$1,441,400

6. DEPARTMENT OF LAW

1985-86	$155,700
1986-87	$5,207,800
1987-88	$5,512,200

7. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorney

1986-87	$8,350,900
1987-88	$8,781,600

b. County Attorney

1986-87	$8,651,900
1987-88	$9,086,000

TOTAL—UNIFIED PROSECUTORIAL SYSTEM

1986-87	$17,002,800
1987-88	$17,867,600

8. AUDITOR OF PUBLIC ACCOUNTS

1986-87	$2,807,000
1987-88	$2,891,200

The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits.

No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

There is hereby appropriated to the Auditor of Public Accounts funds which are required in the auditing of federal disaster relief funds.

The Auditor shall maintain a record of all time and expenses for each audit or investigation.

Any additional expense incurred by the Auditor of Public Accounts for auditing federal funds, when such audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency, when such costs may be charged against federal funds. The Auditor of Public Accounts is hereby authorized to receive these federal funds in a separate account to be established for this purpose. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

9. DEPARTMENT OF AGRICULTURE

1986-87	$9,715,000
1987-88	$10,387,700

Included in the above appropriation is $400,000 in fiscal year 1986-87 and $800,000 in fiscal year 1987-88 for the Brucellosis Vaccination Program.

10. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87	$5,127,900
1987-88	$5,366,100

Included in the above appropriation is $152,500 in fiscal year 1986-87 and $152,500 in fiscal year 1987-88 for the Kentucky Early Warning System (KEWS) operation of which $10,000 each year is intended for the maintenance of radio equipment.

There is hereby appropriated to the Department funds which are required as a result of the Governor's call of the Kentucky National Guard to active duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Disaster and Emergency Services

1985-86	$2,500,000
1986-87	$2,253,300
1987-88	$2,331,000

The above appropriation of $2,500,000 in fiscal year 1985-86 is intended for the state's matching share of the Individual Family Grants awarded in connection with the 1984 flood disaster.

Included in the above appropriation is $240,300 in fiscal year 1986-87 and $240,300 in fiscal year 1987-88 for Kentucky Early Warning System (KEWS) operation.

Also, included in the above appropriation is $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 for emergency expenses by the Division of Disaster and Emergency Services for disasters and emergencies. These funds may only be expended at the recommendation of the Adjutant General to the Governor.

There is hereby appropriated to the Department funds required to match federal aid to which the state would be eligible in the event of a Presidentially-declared disaster or emergency.

TOTAL—DEPARTMENT OF MILITARY AFFAIRS

1985-86 . . . . $2,500,000

1986-87 . . . . $7,381,200

1987-88 . . . . $7,697,100

11. DEPARTMENT OF PERSONNEL

a. General Operations

1986-87 . . . . $4,393,900

1987-88 . . . . $4,510,300

b. Pay-for-Performance

1986-87 . . . . $-0-

1987-88 . . . . $250,000

It is the intent of the General Assembly that the above appropriations be matched with like amounts of non-General Fund revenues available to state agencies. However, no state agency shall be penalized in its ability to grant pay-for-performance increases to its eligible employees because of an inability to financially match the General Funds necessary to provide such payments.

TOTAL—DEPARTMENT OF PERSONNEL

1986-87 . . . . $4,393,900

1987-88 . . . . $4,760,300

12. PERSONNEL BOARD

1985-86 . . . . $49,900

1986-87 . . . . $299,000

1987-88 . . . . $310,100

13. DEPARTMENT FOR LOCAL GOVERNMENT

1986-87 . . . . $4,857,100

1987-88 . . . . $5,033,700

14. COUNTY COSTS	1986-87	1987-88
a. Base Court Revenue	$5,431,000	$5,431,000

b. Sheriffs' Fees	1,334,500	1,374,500
c. Jury Fund	3,856,200	3,971,900
d. Witnesses	116,100	119,600
e. Special Bailiffs	25,800	26,600
f. Board of Assessment Appeals	20,000	20,600
g. Fugitives from Justice	358,000	368,700
h. Sheriffs' Expense Allowance	432,000	432,000
i. Premium on Sheriffs' Bonds	526,800	542,600
j. County Clerks—Making Tax Bills	585,200	602,700

Funds required to pay county costs funded by the General Fund are hereby appropriated and additional funds may be allotted from the General Fund surplus account by the Secretary of the Finance and Administration Cabinet.

TOTAL—COUNTY COSTS

1986-87 .... $12,685,600

1987-88 .... $12,890,200

15. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

1986-87 .... $34,300,000

1987-88 .... $40,150,000

The above appropriations are based on the official estimate of the Secretary of Revenue for severance tax collections during the biennium, distributed in accordance with KRS 42.450 through 42.495. In the event actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 through 42.495.

b. Area Development Fund

1986-87 .... $3,500,000

1987-88 .... $3,500,000

Funds appropriated for the Area Development Fund shall be limited to these amounts.

c. Kentucky Center for the Arts

1986-87 .... $3,458,200

1987-88 .... $3,460,800

Included in the above appropriations are $600,000 each fiscal year for miscellaneous maintenance projects and $2,858,200 in FY 1986-87 and $2,860,800 in FY 1987-88 for debt service payments.

TOTAL—SPECIAL FUNDS

1986-87 .... $41,258,200

1987-88 .... $47,110,800

16. CAPITAL PLAZA

1986-87 .... $2,316,500

1987-88 .... $2,253,500

Included in the above appropriation is $1,789,600 in fiscal year 1986-87 and $1,753,800 in fiscal year 1987-88 which shall be used for debt service for the Capital Plaza.

17. GENERAL OBLIGATION BONDS

a. Park Bonds

1986-87 .... $560,000

1987-88 .... $565,000

b. Veterans Bonus Bonds

1986-87 .... $7,875,000

1987-88 .... $7,880,000

c. 1965 General Purpose Bonds

1986-87 .... $2,070,000

1987-88 .... $2,070,000

TOTAL—GENERAL OBLIGATION BONDS

1986-87 .... $10,505,000

1987-88 .... $10,515,000

18. FINANCIAL DISCLOSURE REVIEW COMMISSION

1985-86 .... $20,800

1986-87 .... $50,900

1987-88 .... $52,400

19. MISCELLANEOUS APPROPRIATIONS

a. Board of Claims Awards

1986-87 .... $300,000

1987-88 .... $300,000

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of such agencies.

b. Judgments

1986-87	$400,000
1987-88	$400,000

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45. Also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. However, in no event shall the total payments exceed the sum of $5,500,000 in any fiscal year.

c. Prior Year Claims

1986-87	$100,000
1987-88	$100,000

d. Unredeemed Checks Refunded

1986-87	$60,000
1987-88	$60,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

e. Blanket Employees Bonds

1986-87	$140,000
1987-88	$140,000

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

f. Frankfort Planning Commission

1986-87	$ 1,000
1987-88	$ 1,000

g. Frankfort Cemetery

1986-87	$ 2,500
1987-88	$ 2,500

h. Public Improvements

1986-87	$ 5,000
1987-88	$ 5,000

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

i. Police and Firemen—Life Insurance

1986-87	$50,000
1987-88	$50,000

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

j. Workers' Compensation

1986-87	$40,000
1987-88	$40,000

Fee officers in counties over 75,000 in population.

k. Master Commissioners—Employers Retirement

1986-87	$63,000
1987-88	$63,000

l. Master Commissioners—Social Security

1986-87	$100,000
1987-88	$100,000

m. Money Refunded

1986-87	$ 2,000
1987-88	$ 2,000

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet and the Attorney General.

TOTAL—MISCELLANEOUS APPROPRIATIONS

1986-87	$1,263,500
1987-88	$1,263,500

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are hereby appropriated, and any required expenditure over the above amounts is to be paid from the General Fund Surplus Account.

20. COMMISSION ON HUMAN RIGHTS

1986-87	$1,254,500
1987-88	$1,316,700

21. COMMISSION ON WOMEN

1986-87	$194,100
1987-88	$201,000

TOTAL—GOVERNMENT OPERATIONS

1985-86	$2,982,000
1986-87	$130,983,500
1987-88	$140,698,800

B. COMMERCE

22. OFFICE OF THE SECRETARY

1986-87 .... $24,004,600

1987-88 .... $25,232,000

Included in the above appropriation is $10,000,000 in fiscal year 1986-87 and $10,000,000 in fiscal year 1987-88 for debt service payments on the Economic Development Bond program for the previous $100 million authorization. Also included is $1,055,000 in fiscal year 1986-87 and $2,110,000 in fiscal year 1987-88 to pay debt service on a $20 million economic development bond authorization. Also included as $11,209,700 in fiscal year 1986-87 and $11,209,700 in fiscal year 1987-88 to pay debt service for a $92 million economic development bond authorization for the Toyota development project.

23. DEPARTMENT OF ECONOMIC DEVELOPMENT

1986-87 .... $3,362,800

1987-88 .... $3,508,500

24. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1986-87 .... $8,424,000

1987-88 .... $6,924,000

Included in the above appropriation is $5,424,000 in each fiscal year for debt service payments associated with the $50 million bond issuance for the Kentucky Development Finance Authority loan program.

25. DEPARTMENT OF THE ARTS

1986-87 .... $3,711,700

1987-88 .... $3,807,900

Included in the above appropriation is $150,000 in fiscal year 1986-87 and $150,000 in fiscal year 1987-88 for the Governor's Institute for the Arts. Also included in the above appropriation is $1,600,000 in each fiscal year for the Development and Challenge Grant programs to be administered by the Kentucky Arts Council.

Included in the above appropriation is $120,000 each fiscal year for Outdoor Drama Grants.

TOTAL—COMMERCE

1986-87 .... $39,503,100

1987-88 .... $39,472,400

C. CORRECTIONS

26. CORRECTIONS CABINET

a. Corrections Management

1985-86.................... $26,900

1986-87 .... $10,597,900

1987-88 .... $14,053,400

Included in the above appropriation for fiscal year 1985-86 is $26,900 for back pay under the Continuous

Service Award Litigation. Also included in the above appropriation is $3,885,300 in fiscal year 1986-87 and $4,184,500 in fiscal year 1987-88 for continuing debt service for State Property and Buildings Commission Project 32 bonds. Included in the fiscal year 1986-87 appropriation is $2,687,500 and $5,800,100 in fiscal year 1987-88 for debt service to fund the new medium security correctional facility and the second 152-bed dormitory at the Kentucky State Reformatory, as identified in Part V of this Act. It is the intention of the General Assembly that the $3.4 million bond authorization and related debt service fund the construction of a 152-bed facility on the grounds of the Kentucky State Reformatory in lieu of renovating an existing dorm. It is intended that this authorized project be identical in design to the $3.1 million 152-bed facility authorized in FY 1984 and reauthorized within this budget. It is intended that the design of the first facility be used as a prototype for the design of the second facility and that every effort be made to minimize re-design costs. It is intended that in no event shall the bid for the second facility be let for other than an 152-bed facility identical in design and scope of the first project and at a cost of $3.4 million. It is intended that should all bid responses exceed the authorized $3.4 million authorized that the Finance Cabinet may exercise its duly established perogative of contract award within a 15% range.

Included in the Corrections Management appropriation is $65,000 in FY 1987 and $39,000 in FY 1988 for costs associated with the development of a state-of-the-art correctional population projection technique or techniques. It is intended that corrections staff present the benefits and shortcomings of the technique or techniques proposed to the Subcommittee on Justice, Corrections and Judiciary, Interim Joint Committee of Appropriations and Revenue prior to actual purchase of software or hardware for the project. It is intended that the population projection developed provide systemwide data including jails, probation, intensive probation, institutional alternatives, institutions, pre-parole, parole, intensive parole, advanced parole, recidivism and violations as well as institutional or alternative placements by custody level. It is further intended that an assessment of the validity of the technique chosen be conducted during the FY 1986-88 Interim and that validation data be presented to the Subcommittee on Justice, Corrections and Judiciary by November 15, 1987.

Also included in the above appropriation is $300,000 in fiscal year 1987 and $200,000 in fiscal year 1988 for the development of the correctional component of the Unified Criminal History Information System (UCHIS) which is to be coördinated by the Department of State Police. It is intended that the Cabinet develop a common identifier and data base compatible with all agencies within the CHIS network that provides, at a minimum, offender information regarding date of institutionalization; offenses for which convicted, prior histories, and current sentence; length of incarceration; type of release; status of release, reincarceration, and revocation. Of the appropriated amount, $50,000 in fiscal year 1987 is to be transferred to the Department of Information Systems for the purpose of purchasing an information system software package for local jails with the requirement that data be available to all agencies within the CHIS network. It is the intention of the General Assembly that the Department for Information Systems, in coordination with State Police, Jails, Corrections and Administrative Office of the Courts develop, at no charge to either agency, a plan to adapt existing equipment and programs and any proposed equipment and programs into one centralized, compatible system and to present that plan and its cost to the Subcommittee on Justice, Corrections and Judiciary, Interim Committee on Appropriations and Revenue by September 30, 1986. In no event, except for the jail appropriation, shall monies be spent prior to legislative review or for hardware not compatible with the Unified System. The Department for Information Systems shall report on the possibility of utilization of the AVIS system by all agencies involved in CHIS including pretrial services, probation and parole and jails. To the extent possible, the Department for Information Systems shall provide CHIS programming at no charge. It is the intention of the General Assembly that the development of the CHIS system be regarded by DIS as a top priority.

Also included in the above appropriation is $516,900 in fiscal year 1986-87 and $543,900 in fiscal year 1987-88 for the operation of the Parole Board.

b. Adult Institutions

1985-86	$75,500
1986-87	$52,695,500
1987-88	$56,229,000

Included in the above appropriation is $505,800 in fiscal year 1987 and $498,800 in fiscal year 1988 for a sex offender treatment program for approximately 600 institutionalized sex offenders.

c. Community Services and Local Facilities

1985-86 .... $327,600

1986-87 .... $18,082,000

1987-88 .... $20,746,100

Included in the above appropriation is $434,000 in fiscal year 1987 and $456,000 in fiscal year 1988 for the expansion of the Intensive Supervision Program. It is the intention of the General Assembly that a separate account be established for the Intensive Supervision Program and that this cost and caseload data be available quarterly or upon request and that said data delineate, by officer, time and costs for each intensive clients and regular clients. It is recognized that the total program appropriation is sufficient to provide services to approximately 900 clients on a daily basis and it is the intention of the General Assembly that the Cabinet pursue, to the best of its ability, full use of the program for purposes of early parole, shock probation and parole revocation. To the extent that, at any given time, the program is not utilized fully for these targeted populations, it shall provide services for high-risk parolees on regular supervision. Specifically, it is intended that any Intensive Supervision officer with a caseload of less than 25 temporarily be assigned high-risk parolees from regular supervision so that his or her caseload totals 25. Selection and assignment of high-risk parolees will be the responsibility of the supervisor upon consultation with the officer. At such time that an officer receives additional intensive clients, the supervisor will coordinate the phasing back of the high-risk parolee into regular supervision. The officer's responsibility to a high-risk parolee, for the duration of that supervision, shall be the same as with a regular intensive client.

Also included in the above appropriation is $500,000 each year to hire 20 additional parole officers for the newly created Advanced Supervision Program. It is the intention of the General Assembly that these 20 officers will be assigned in urban, semi-urban and rural offices and will supervise caseloads of 50 persons who are classified as requiring maximum or medium supervision. It is intended that supervision for each client will consist of at a minimum: one quarterly meeting with the client and his family; three face-to-face office contacts per month; one home visit per month; one employment contact per month; and, weekly arrest record checks. In order to adequately evaluate the impact of this program, the Cabinet is instructed to furnish annual reports to the General Assembly on the numbers of participants and measures of success including number of participants completing supervision; number of participants with no new charges, revoked, reincarcerated or absconding; and, for each, a relative adjustment index. Evaluation of success must also provide geographical comparisons and levels-of-risk comparisons among Advanced Supervision clients and levels-of-supervision comparisons among Advanced Supervision, Intensive Supervision, and regular supervision.

Included in the above appropriation is $150,000 each year for the purpose of funding on a pilot basis the parolee drug and alcohol treatment program currently operated by volunteers on a limited basis in Louisville. It is the intention of the General Assembly that the Cabinet contracts with the current program staff for services and that the program be expanded in Louisville and a similar program implemented in Lexington; and that service-load, client completion, violation and recidivism data be collected, compiled and distributed by project staff.

Included in the above appropriation for Community Services and Local Facilities is a reserve pool of $100,000 for the Controlled Intake Program. It is intended that this pool be held in a separate account and allotments be available only if the total institutional populations on March 31 of years 1987 and 1988 are in excess of 6,126 and 6,618, respectively.

d. Local Jails Support

1986-87 .... $15,038,400

1987-88 .... $15,476,600

Included in the above appropriation is $927,000 in fiscal year 1986-87 and $954,800 in fiscal year 1987-88 for medical care contracts to be distributed, upon approval of the Corrections Cabinet, to counties by the formula for operational fund disbursement codified in KRS 441.206; $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 is provided, on a partial reimbursement basis, for medical claims in excess of $2,500.

It is the intent of the General Assembly that the $927,000 in fiscal year 1986-87 and $954,800 in fiscal year

1987-88 for medical contracts be maintained in an individual account specifically for medical contracts and that a county must be certified by the Corrections Cabinet in order to receive its pro rated share. In order to obtain certification, a county must submit a notarized statement to the Cabinet which states that it has, to the best of its ability, investigated and obtained the most feasible medical contract or contracts possible. A copy of the contract shall be appended to the letter requesting certification. Upon receipt of the letter requesting certification, the Corrections Cabinet shall review and if approvable, distribute the funds as appropriate. If the contract is not approvable, the Cabinet must respond in writing to the county of its decision and basis for objection. In no event shall the Cabinet release funds without giving proper certification. In no event shall monies be expended for medical services or supplies that are not provided through an approved contract.

It is the intention of the General Assembly that $103,000 in fiscal year 1986-87 and $106,100 in fiscal year 1987-88 be maintained in a separate account for catastrophic medical expenses for indigents. It is the intention of the General Assembly that any medical claim which exceeds $2,500 may be reimbursed for that amount in excess of $2,500. In no event shall this apply to expenses of an elective, as opposed to emergency, basis and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL—CORRECTIONS

1985-86 .... $430,000

1986-87 .... $96,413,800

1987-88 .... $106,505,100

D. EDUCATION AND HUMANITIES

27. DEPARTMENT OF EDUCATION

a. General Administration

1986-87 .... $13,613,500

1987-88 .... $15,398,100

Included in the above appropriation is $132,200 in fiscal year 1986-87 and $133,200 in fiscal year 1987-88 for debt service, and $2,413,900 in fiscal year 1986-87 and $2,486,300 in fiscal year 1987-88 for maintenance of facilities and building insurance costs. The amounts herein identified shall be expended for these purposes and no others, except as provided in this Act. Any surplus shall lapse to the General Fund. The above appropriation also includes $1,500,000 in fiscal year 1986-87 and $3,000,000 in fiscal year 1987-88 for an Educational Excellence Incentive Fund as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $2,500,000 in fiscal year 1986-87 and $2,500,000 in fiscal year 1987-88 for an Educational Innovation Incentive Fund as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

b. Local District Health and Life Insurance

1986-87 .... $43,889,100

1987-88 .... $47,694,300

Included in the above appropriation is $488,500 in fiscal year 1986-87 and $512,600 in fiscal year 1987-88 to provide life insurance to each full-time certified and non-certified employee of local boards of education. Also included in the above appropriation is $43,218,900 in fiscal year 1986-87 and $46,990,900 in fiscal year 1987-88 to purchase medical insurance for certified and non-certified full-time employees of local boards of education pursuant to applicable statutes and regulations. If the costs for life insurance or health insurance exceed the levels of appropriated funds, any unexpended School Foundation Program funds may be used to offset such expenditures, subject to the approval of the Secretary of the Finance and Administration Cabinet.

c. Education for Exceptional Children

1986-87	$10,165,000
1987-88	$10,305,000

Of the above appropriation, at least $3,157,300 in fiscal year 1986-87 and at least $3,271,400 in fiscal year 1987-88 is included for the Kentucky School for the Blind, and at least $5,182,500 in fiscal year 1986-87 and at least $5,153,600 in fiscal year 1987-88 is included for the Kentucky School for the Deaf.

Included in the appropriations to Kentucky School for the Blind and Kentucky School for the Deaf are funds to set the salary schedule of the teachers at those residential facilities the same as salary schedules in effect at local school districts in counties containing a city of the first class in the event of passage of enabling legislation.

Also included in this appropriation is $350,000 in each year of the 1986-88 biennium for debt service for the addition to the classroom building at the Kentucky School of the Blind.

d. School Foundation Program

1985-86	$6,000,000
1986-87	$976,702,200
1987-88	$1,053,161,500

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

Funds appropriated to the School Foundation Program shall be allotted to school districts in accordance with KRS 157.310 through 157.430 and 157A.090, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. If funds appropriated to the School Foundation Program are insufficient to provide the amount of money required under KRS 157.390(6), allotments to local school districts shall be reduced in accordance with KRS 157.430.

The amount to be included for the 1986-87 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	19,400	17,370	15,330	13,200	12,170
4-9 years	21,430	19,400	17,370	13,200	12,170
10-14 years	23,580	21,540	19,490	13,200	12,170
15 years & over	23,980	21,940	19,890	13,200	12,170

Beginning with the school year 1987-88, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	20,370	18,240	16,100	13,860	12,780
4-9 years	22,500	20,370	18,240	13,860	12,780
10-14 years	25,260	23,120	20,970	13,860	12,780
15-19 years	26,080	23,940	21,790	13,860	12,780
20 years & over	26,480	24,340	22,190	13,860	12,780

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the School Foundation Program allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(2) shall be reduced by an amount equal to the amount by which the district failed to meet salary requirements, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Revenue Cabinet. Said Cabinet shall then determine whether there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Revenue Cabinet shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1986-87 and 1987-88 in which the total amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for school foundation program teachers' instructional salaries in the preceding year, plus the additional amount for teachers' salaries received by the district under this appropriation for a 185 day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year in each local school district.

Local school district personnel who are employed beyond the regular school term of 185 days shall be so employed in accordance with the provisions of KRS 157.390(2)(a) and 702 KAR 1:025. Funding for these extended employment days shall not exceed $21,023,000 in fiscal year 1986-87 and $21,083,000 in fiscal year 1987-88.

Included in the above appropriations are funds to extend the employment of all vocational agriculture units funded in the school foundation program to two hundred forty (240) days, in the event of passage of enabling legislation.

The allotment of any school district classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

In fiscal year 1986-87, the allotments to school districts of basic classroom units for grades one (1) through three (3) shall be made on the basis of one for every twenty-three (23) pupils in average daily attendance and for grades four (4) through twelve (12) on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance. In fiscal year 1987-88, the allotments to school districts for grades one (1) through three (3) shall be made on the basis of one (1) for every twenty-two (22) pupils in average daily attendance; the allotments to school districts for grades four (4) through six (6) shall be made on the basis of one (1) every twenty-six (26) pupils in average daily attendance; and the allotments to school districts for grades seven (7) through twelve (12) shall be made on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1986-87	1987-88
Vocational Education	2,538	2,538
Exceptional Children	4,285	4,360

Provided, however, that if the budgeted units in any category of classroom units -- Vocational Education, Exceptional Children, Kindergarten, classroom units for elementary and secondary schools, and units related to school administration -- prove to be excessive, the surplus may be reallocated to any other category or categories by the Superintendent of Public Instruction, upon the approval of the State Board of Education and the Secretary of the Finance and Administration Cabinet.

Kindergarten units shall be allotted in fiscal year 1986-87 and fiscal year 1987-88 on the basis of one for every two classes with 25 pupils in average daily attendance in each class. The number of units allotted shall be based on end-of-year prior year average daily attendance including the percent of kindergarten increase in average daily attendance the first two months of the current year over the first two months of the previous school year.

Included in this appropriation is $6,700,000 in fiscal year 1986-87 and $7,000,000 in fiscal year 1987-88 for a kindergarten aide for each kindergarten unit allotted.

The allotments of basic classroom units shall be made on the average daily attendance (ADA) for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions, (a) an average daily attendance of nine and six-tenths (9.6) in fiscal year 1986-87 and in fiscal year 1987-88 shall be deducted for each vocational education unit allotted, and (b) an average daily attendance of seven and two-tenths (7.2) in fiscal year 1986-87 and in fiscal year 1987-88 shall be deducted for each exceptional children unit allotted.

The total number of administrative and special instructional services (ASIS) units allotted under KRS 157.360(7) shall be the sum of the total allotted number of basic units, kindergarten units, vocational units, and exceptional children units divided by nine.

The State Board of Education shall promulgate regulations upon the recommendation of the Superintendent of Public Instruction which shall cause ASIS units to be allocated with first priority given to funding units required for accreditation, and second priority given to adding units for classroom instruction. The third priority of funding shall be given to other needs for ASIS units in local school districts.

Allotments for ASIS classroom units pursuant to KRS 157.360(7) shall only be for those personnel who are qualified for their respective positions under applicable provisions of law and regulations and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses in the 1986-88 biennium shall be determined by multiplying the number of classroom units by: $4,890 in the 1986-87 school year and $5,110 in the 1987-88 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,800 in the 1986-87 school year and $1,800 in the 1987-88 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days in accordance with KRS 158.070, or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units.

Any undistributed balance in the Foundation Program fund at the end of the fiscal years 1986-87 and 1987-88 shall lapse to the General Fund except where provisions to the contrary are provided in this Act.

The total appropriation for the School Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, of the total appropriation to the Foundation Program is subject to Part VI, General Provisions, of this Act, and the provisions of KRS Chapter 48.

Included in this appropriation is $6,000,000 in fiscal year 1985-86, $84,451,500 in fiscal year 1986-87, and $86,805,000 in fiscal year 1987-88 for the costs of transporting pupils to and from school. Calculations of the allotments of pupil transportation funds to school districts shall be made in accordance with KRS 157.370 and 157A.090, except that the total of the funds allotted under KRS 157.390(5) shall not exceed $84,451,500 in fiscal year 1986-87 and $86,805,000 in fiscal year 1987-88 provided, however, that these sums may be increased by any excess funds appropriated for the School Foundation Program, but no such increases shall exceed the total transportation cost calculated in accordance with KRS 157.370 and 157A.090, subject to the approval of the Superintendent of Public Instruction and the Secretary of the Finance and Administration Cabinet, except where provisions to the contrary are stated in this Act.

In the event that the funds appropriated for pupil transportation in fiscal year 1986-87 and fiscal year 1987-88 are insufficient to provide allotments to local school districts in accordance with KRS 157.370 and 157A.090, notwithstanding KRS 157.430, the allotments of funds for pupil transportation only to local school districts shall be ratably reduced without reducing other allotments under this appropriation.

Included in the School Foundation Program appropriation is $2,022,900 in fiscal year 1986-87 and $2,083,600 in fiscal year 1987-88 for Vocational Transportation.

e. Power Equalization

1986-87	$68,561,200
1987-88	$96,278,300

Funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with KRS 157.545—157.580. In the event that funds appropriated for Power Equalization are insufficient to provide allotments to local school districts in accordance with KRS 157.545—157.580, the allotments to local school districts shall be ratably reduced.

f. Instruction

1986-87	$30,602,100
1987-88	$42,965,900

The above appropriation includes $13,227,200 in fiscal year 1986-87 and $13,833,800 fiscal year 1987-88 for a program of Essential Skills Remediation for Students.

The above appropriation also includes $2,500,000 in fiscal year 1986-87 and $2,600,000 in fiscal year 1987-88 for the Teacher Testing and Internship Program.

The above appropriation also includes $5,692,900 in fiscal year 1986-87 and $6,100,100 in fiscal year 1987-88 for the Gifted and Talented Program. In the funds appropriated for the Gifted and Talented program, $75,000 in FY 1986-87 and $55,000 in FY 1987-88 shall be used to fund the Gifted and Talented Advisory Council.

The above appropriation also includes $9,000,000 in fiscal year 1987-88 for the Effective Teacher/Evaluation Fund established by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $1,000,000 in fiscal year 1986-87 and $2,000,000 in fiscal year 1987-88 for a writing program in grades 7-10 as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $150,000 in fiscal year 1986-87 and $150,000 in fiscal year 1987-88 for teacher institutes as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for in-service teacher training improvements as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $550,000 in fiscal year 1986-87 and $550,000 in fiscal year 1987-88 for dropout prevention programs as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for a principal testing and internship program as provided for by House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $1,100,000 in fiscal year 1986-87 and $1,175,000 in fiscal year 1987-88 for expanded adult education programs as provided for in House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the Kentucky General Assembly.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for community education grants as provided for in House Bill 6 and House Concurrent Resolution 5 enacted by the 1985 Extraordinary Session of the General Assembly.

The above appropriation also includes $300,000 in FY 1986-87 and $900,000 in FY 1987-88 to establish local school district model programs of instruction for pre-school children and their parents, in the event of passage of enabling legislation.

The above appropriation also includes $400,000 in FY 1987-88 to establish a consortium to provide psychological services to children in local school districts.

g. Local Services

1986-87	$20,735,100
1987-88	$16,213,900

Included in the above appropriation is $3,115,900 for fiscal year 1986-87 and $3,213,800 for fiscal year 1987-88 for reimbursement to local school districts for the Out-of-District Children program operated in accordance with KRS 158.135 and applicable regulations. Funds to be expended for the Out-of-District Children program shall be limited to these amounts, and if sufficient funds are not available within these allocated amounts to reimburse each district for the total allowed cost of the program, each allocation shall be ratably reduced to the level of available funds.

The above appropriation also includes $353,400 in fiscal year 1986-87 and $387,900 in fiscal year 1987-88 for school district audits; and $15,297,500 in fiscal year 1986-87 and $10,563,200 in fiscal year 1987-88 for the purchase of textbooks for grades kindergarten through eight. Local school districts shall establish, pursuant to State Board of Education regulations, a process whereby pupils may rent textbooks for a reasonable fee. Textbooks purchased by the State Board of Education, prior to July 1, 1984, for grades nine through twelve shall continue to be loaned or rented to pupils until they are no longer selected and listed by the State Textbook Commission. Rental fees collected by the district shall be used for the maintenance of the textbooks and the purchase of new textbooks.

The textbooks selected by the textbook commission for each subject and grade shall be used as basal text in school district for a period of six (6) years.

No appropriation is included in this Act for the replacement of student fees; therefore, public schools may charge students for necessary fees and rentals, and may require students to purchase necessary instructional materials.

The above appropriation also includes $250,000 in fiscal year 1986-87 and $250,000 in fiscal year 1987-88 for a management assistance program as provided for in House Bill 6 and House Concurrent Resolution 5 as enacted by the 1985 Extraordinary Session of the General Assembly.

h. Vocational Education

1985-86	$150,000
1986-87	$48,698,000
1987-88	$53,677,000

Included in the above appropriation is $500,000 in FY 1986-87 and $3,300,000 in FY 1987-88 to support locally operated vocational education departments and centers. Fiscal year 1986-87 funds are for use in vocational education departments and centers operated by the Jefferson County School Board.

i. Vocational Rehabilitation

1986-87	$4,516,400
1987-88	$4,818,400

j. Administrative Services and Budget Management

1986-87	$4,041,000
1987-88	$4,210,900

TOTAL—DEPARTMENT OF EDUCATION

1985-86	$6,150,000
1986-87	$1,221,523,600
1987-88	$1,344,723,300

28. ADULT AND VOCATIONAL/TECHNICAL EDUCATION IMPROVEMENT PLAN

1986-87	$ -0-
1987-88	$1,500,000

It is intended that before any expenditure of funds occurs for the Adult and Vocational/Technical Education Improvement Plan that a plan be implemented by the appropriate governmental agency. When the plan is adopted, it is to be presented to the Interim Joint Committees on Education and Appropriations and Revenue.

29. CAREER LADDER COMMISSION

1985-86	$200,000
1986-87	$2,500,000
1987-88	$2,500,000

30. COMMISSION ON VOCATIONAL/TECHNICAL EDUCATION

1985-86	$100,000
1986-87	$-0-
1987-88	$-0-

31. BLUEGRASS STATE SKILLS CORPORATION

1986-87 .... $451,000

1987-88 .... $464,500

32. KENTUCKY EDUCATIONAL TELEVISION

1986-87 .... $8,395,600

1987-88 .... $10,358,200

Included in the above appropriation is $610,800 in fiscal year 1986-87 and $2,018,800 in fiscal year 1987-88 for debt service. Included in this amount in fiscal year 1987-88 is debt service of $1,411,300 for construction of a second channel facility and equipment. Also included in the above appropriation is $300,000 in fiscal year 1986-87 and $300,000 in fiscal year 1987-88 for GED Study-at-Home Program. Funds for extending broadcast hours are provided in the above appropriation at $330,000 in fiscal year 1987-88.

33. HISTORICAL SOCIETY

1986-87 .... $1,654,400

1987-88 .... $1,703,700

34. LIBRARY AND ARCHIVES

a. General Operations

1986-87 .... $6,404,600

1987-88 .... $6,634,200

Included in the above appropriation is $100,000 in each year of the Biennium in the Public Records Division for staffing, computer services, other operating support, and computer hardware necessary to develop a machine readable records management program for Kentucky State Government.

Included in the above appropriation is $1,420,000 in fiscal year 1986-87 and $1,420,000 in fiscal year 1987-88 for debt service.

b. Direct Local Aid

1986-87 .... $3,931,800

1987-88 .... $5,054,300

Included in the above appropriation is $1,335,300 in fiscal year 1986-87 and $2,445,300 in fiscal year 1987-88 for state-aid grants to local public libraries.

35. DEPARTMENT FOR THE BLIND

1986-87 .... $1,256,000

1987-88 .... $1,293,700

36. KENTUCKY SCHOOL BUILDING AUTHORITY

1986-87 .... $6,763,800

1987-88 .... $6,782,300

Funds are appropriated for the purpose of meeting the debt service requirements on bonds and bond anticipation notes previously issued or authorized by the Authority. Also included in the above appropriation is debt service in the amount of $214,400 in fiscal year 1986-87 and $214,400 in fiscal year 1987-88 for the Letcher County project and debt service in the amount of $139,000 in fiscal year 1986-87 and $139,000 in fiscal year 1987-88 for the Jessamine County project.

37. TEACHERS' RETIREMENT SYSTEM

1986-87	$165,444,400
1987-88	$173,436,800

Funds are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 through 161.716.

The above appropriation also includes funding to allow members of the Retirement System to retire after 27 years of service with full benefits, in the event of passage of enabling legislation.

The above appropriation is based upon estimated funds needed to meet the requirements of KRS 161.220 through 161.716. In the event the above appropriations are in excess of these requirements, such excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund dollars are provided in fiscal year 1986-87 or fiscal year 1987-88 for the cost of administration.

38. ORAL HISTORY COMMISSION

1986-87	$99,200
1987-88	$102,000

39. HERITAGE COUNCIL

1986-87	$673,000
1987-88	$655,000

Included in the above appropriation is $245,000 in fiscal year 1986-87 and $215,000 in fiscal year 1987-88 for the Kentucky Main Street Program.

40. COMMISSION ON THE DEAF AND HEARING IMPAIRED

1986-87	$215,300
1987-88	$227,700

Included in the above appropriation is $25,000 in fiscal year 1986-87 and $30,000 in fiscal year 1987-88 for grants to be administered by the Commission on the Deaf and Hearing Impaired for interpreter service for postsecondary deaf or hearing impaired students.

41. OFFICE OF THE SECRETARY

1986-87	$169,100
1987-88	$185,000

Included in the above appropriation is $17,700 in fiscal year 1986-87 and $25,600 in fiscal year 1987-88 for the Client Assistance Program for operations.

42. GOVERNOR'S COMMISSION ON LITERACY

1986-87 .... $800,000

1987-88 .... $825,000

Included in the above appropriation is $735,000 in fiscal year 1986-87 and $757,000 in fiscal year 1987-88 for grants to be made available to local groups capable of conducting literacy training.

43. SCHOOL FACILITIES CONSTRUCTION COMMISSION

1985-86 .... $100,000

1986-87 .... $3,109,100

1987-88 .... $15,114,100

TOTAL EDUCATION AND HUMANITIES

1985-86 .... $6,550,000

1986-87 .... $1,423,390,900

1987-88 .... $1,571,559,800

E. ENERGY

44. KENTUCKY ENERGY CABINET

a. Administration and Support

1986-87 .... $922,900

1987-88 .... $963,200

b. Department of Energy Research and Development

1986-87 .... $7,002,900

1987-88 .... $7,157,100

c. Energy Demonstration Trust Fund

1986-87 .... $3,854,900

1987-88 .... $4,126,100

Included in the above appropriation is $3,460,000 in fiscal year 1986-87 and $3,280,000 in fiscal year 1987-88 for payments to the Tennessee Valley Authority for construction of the atmospheric fluidized bed combustion (AFBC) project located at the Shawnee plant near Paducah.

d. Department of Energy Production and Utilization

1986-87 .... $758,300

1987-88 .... $806,600

TOTAL—ENERGY CABINET

1986-87 .... $12,539,000

1987-88 .... $13,053,000

F. FINANCE AND ADMINISTRATION

45. FINANCE AND ADMINISTRATION CABINET

a. Office of the Secretary

1985-86	$35,000
1986-87	$2,981,200
1987-88	$3,021,200

Included in the above appropriation is $165,000 in fiscal year 1986-87 and $175,000 in fiscal year 1987-88 for payment to the City of Frankfort for the provision of fire and police protection and other services for state-owned property in accordance with KRS 45.155. Also included in the above appropriation is $250,000 in fiscal year 1987-88 for the gubernatorial transition. Also included in the above appropriation is $300,000 in fiscal year 1986-87 for the Commonwealth's share of the repair and rededication of the State Veterans War Memorial.

b. Department of Administration

1985-86	$81,100
1986-87	$5,666,400
1987-88	$5,406,400

c. Department of Facilities Management

1986-87	$6,987,000
1987-88	$8,453,600

Included in the above appropriation is $1,230,000 in fiscal year 1987-88 which shall be used for debt service for the Capitol and Capitol Annex mechanical and electrical renovation.

TOTAL—FINANCE AND ADMINISTRATION

1985-86	$116,100
1986-87	$15,634,600
1987-88	$16,881,200

G. HIGHER EDUCATION

46. COUNCIL ON HIGHER EDUCATION

1986-87	$10,218,200
1987-88	$16,110,300

Included in the above appropriation is $500,000 in fiscal year 1987-88 for the Enrollment Related Revenue Replacement Fund to address the potential continued decreases in enrollment at Morehead State University. This Fund is available only in the event that the fall semester full-time student headcount enrollment for the 1986-87 school year falls below 4,146. These funds will be made available subject to certification by the Morehead State University Board of Regents that all institutional financial remedies have been exhausted and confirmation from the Council on Higher Education that this extraordinary financial assistance to the institution is warranted. Subject to these assurances, this fund will replace lost revenues related to enrollment below the 4,146 level on a dollar for dollar basis up to $500,000. Funds not expended for this purpose will lapse to the credit of the General Fund at the end of fiscal year 1987-88.

Included in the above appropriation is $5,037,500 in fiscal year 1986-87 and $9,499,500 in fiscal year 1987-88 for a Salary Incentive Fund. The fund will be a recurring appropriation included in the Council on Higher Education's appropriation for subsequent distribution to the individual institutions. This pool of funds is to be used for incentive payments to faculty and staff which will become a part of their salary base.

47. HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87 .... $8,074,900

1987-88 .... $8,317,100

Included in the above appropriation is at least $4,037,400 in fiscal year 1986-87 and at least $4,158,500 in fiscal year 1987-88 for Kentucky Tuition Grants. The above appropriation also includes $4,037,500 in fiscal year 1986-87 and $4,158,600 in fiscal year 1987-88 for State Student Incentive Grants.

48. KENTUCKY STATE UNIVERSITY

1986-87 .... $13,872,000

1987-88 .... $14,455,400

Included in the above appropriation is $1,716,000 in fiscal year 1986-87 and $1,712,300 in fiscal year 1987-88 for debt service.

49. EASTERN KENTUCKY UNIVERSITY

1986-87 .... $38,690,200

1987-88 .... $40,743,400

Included in the above appropriation is $3,409,200 in fiscal year 1986-87 and $3,520,500 in fiscal year 1987-88 for debt service.

50. MOREHEAD STATE UNIVERSITY

1986-87 .... $23,495,100

1987-88 .... $24,617,100

Included in the above appropriation is $1,812,900 in fiscal year 1986-87 and $1,817,100 in fiscal year 1987-88 for debt service.

51. MURRAY STATE UNIVERSITY

1986-87 .... $28,325,300

1987-88 .... $31,157,300

Included in the above appropriation is $1;623,400 in fiscal year 1986-87 and $3,156,800 in fiscal year 1987-88 for debt service.

52. NORTHERN KENTUCKY UNIVERSITY

1986-87 .... $22,186,600

1987-88 .... $24,618,900

Included in the above appropriation is $2,354,300 in fiscal year 1986-87 and $3,588,000 in fiscal year 1987-1988 for debt service.

53. WESTERN KENTUCKY UNIVERSITY

1986-87 .... $37,098,300

1987-88 .... $39,176,200

Included in the above appropriation is $2,288,300 in fiscal year 1986-87 and $2,471,400 in fiscal year 1987-88 for debt service.

54. UNIVERSITY OF LOUISVILLE

1986-87 .... $103,620,300

1987-88 .... $111,993,400

Included in the above appropriation is $8,853,200 in fiscal year 1986-87 and $10,422,200 in fiscal year 1987-88 for debt service. Also included in the above appropriation is $10,913,700 in fiscal year 1986-87 and $11,459,400 in fiscal year 1987-88 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished by Humana Hospital-University. The appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1987-88.

55. UNIVERSITY OF KENTUCKY

1986-87 .... $201,350,300

1987-88 .... $225,808,700

Included in the above appropriation is $9,633,400 in fiscal year 1986-87 and $15,131,900 in fiscal year 1987-88 for debt service. Of the stated debt service amounts, $2,657,700 in fiscal year 1986-87 and $5,912,600 in fiscal year 1987-88 are for the Community College System.

In order to avert a workforce reduction due to the Gramm-Rudman-Hollings Act, the above appropriations include funds to provide all Cooperative Extension employees with the same annual salary increment which is provided to all other employees of the University at the Main Campus.

Included in the above appropriation is an amount for the Community College System which shall not be less than $35,835,600 in fiscal year 1986-87 and $43,203,300 in fiscal year 1987-88

TOTAL—HIGHER EDUCATION

1986-87 .... $486,931,200

1987-88 .... $536,997,800

H. HUMAN RESOURCES

56. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87 .... $26,619,100

1987-88 .... $29,887,600

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1986-87 . . . . $51,498,800

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. No portion of this appropriation may be used for the costs of administration.

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be used to increase rates or payment levels in either AFDC or State Supplementation, or both.

b. Department for Medicaid Services Administration

1986-87 . . . . $9,405,900

1987-88 . . . . $10,172,800

In order to maximize available Federal matching funds for Medicaid fraud control administrative cost, the Secretary for Finance and Administration may, upon written request from the Secretary for Human Resources, allocate necessary General Funds directly to the Office of the Attorney General from the Department for Medicaid Services, Administration appropriation, for the purpose of funding the Medicaid Fraud Control Unit.

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Medicaid Benefits and/or Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Medicaid Services and for the Department for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1986-87 . . . . $195,093,600

1987-88 . . . . $217,021,300

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services. No portion of this appropriation may be used for the costs of administration.

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used to:

1. establish a new program,

2. expand the services of an existing program.

3. increase rates or payment levels in an existing program.

The Secretary of the Cabinet for Human Resources is hereby directed to develop by July 1, 1986, a Medicaid Reduction Plan for implementation should a fiscal year's projected expenditures exceed available revenues. Such a plan should provide all interested parties with as much information on a timely basis as possible. The Medicaid Reduction Plan shall be submitted for review, after approval of the Governor, to the Interim Joint Committee on Appropriations and Revenue prior to July 1, 1986.

The Federal Home and Community Based Services Waiver administered by the Department for Medicaid Services shall be expanded statewide beginning January 1, 1987.

c. Department for Employment Services

1986-87 . . . . $9,673,500

1987-88 . . . . $11,281,700

Included in the above appropriations is $9,400,000 in fiscal year 1986-87 and $11,000,000 in fiscal year 1987-88 for training services with the Toyota Economic Development Project.

d. Department for Health Services

1986-87 . . . . $39,261,600

1987-88 . . . . $40,717,100

Every local or district health department in all counties of the Commonwealth, as a precondition for receipt of any state General Fund assistance in excess of the statutorily required minimum of $2,500, shall establish, by July 1, 1986, a program of prenatal care approved by the Commissioner, Department for Health Services.

e. Department for Mental Health/Mental Retardation Services

1986-87 . . . . $77,330,700

1987-88 . . . . $81,448,500

Included in the above appropriation is $4,208,500 in fiscal year 1986-87 and $4,193,600 in fiscal year 1987-88 for debt service.

f. Department for Social Services

1986-87 . . . . $68,458,700

1987-88 . . . . $76,934,300

g. Administration and Program Support

1986-87 . . . . $12,960,400

1987-88 . . . . $15,004,000

It is the intent of this General Assembly to focus the Cabinet's resources, insofar as possible, on direct service provision, minimizing the state's reimbursement of indirect administrative expenses. To this end, a limit of 15% on indirect administrative cost is hereby established for all contracts, except Medicaid benefits, between the Cabinet and non-state government agencies and individuals.

This directive is inclusive of all contract types (with the exception noted below), including but not limited to cost reimbursement type contracts, competitively bid or negotiated fixed price contracts, program administration contracts, and personal service contracts. All contracts shall be offered for bid or negotiation in such a manner as to clearly indicate that the State will limit its reimbursement of indirect administrative cost to no more than 15% of the contract total. If indirect administrative cost exceeds these limits, the additional expense shall be the responsibility of the contract agency or individual, not the Commonwealth. The provision for allocation and definition of direct and indirect costs shall be set forth by administrative regulation.

In reference to contracts with Medicaid providers, the intent of this General Assembly is to minimize reimbursement that is not associated with direct medical care of the patient. To that end, the Department for Medicaid Services is directed to implement reimbursement policies which achieve this objective, within the bounds of federal law and regulation.

Auditors for the Cabinet and the State Auditor are hereby directed to complete audits of all Cabinet contracts, beginning with those effective July 1, 1986, and henceforth, with a statement of this intent as a criteria to be noted in such audit report.

Exceptions to this policy may be authorized by the Secretary of the Finance and Administration Cabinet only under the following circumstances:

1. the contract is for a service which is predominantly administrative in nature;

2. the Secretary of the Cabinet for Human Resources certifies such fact and also documents why such service cannot be performed by state employees;

3. the Secretary of the Cabinet for Human Resources may waive the 15% limitation on indirect administrative cost for competitively bid contracts when such action results in the award of the lowest and best bid proposal; and

4. a listing of such contracts is submitted at the end of each fiscal year to the respective chairmen of the House and Senate Appropriations and Revenue Committees.

Any General Fund surplus occurring during Fiscal Year 1987 shall not lapse but be carried forward as a reserve account for replacement of any federal fund reductions from budgeted levels which may occur prior to January 1, 1988. The balance of such reserve fund remaining on January 1, 1988, shall be expended for the following purpose, an AFDC payments increase and an increase in reimbursement to personal care homes.

Included in the above appropriation is $3,801,000 in fiscal year 1986-87 and $5,062,300 in fiscal year 1987-88 for debt service.

TOTAL—HUMAN RESOURCES CABINET

1986-87 . . . . $490,302,300

1987-88 . . . . $534,559,000

57. Commission for Handicapped Children

1986-87 . . . . $5,860,000

1987-88 . . . . $6,404,000

Funding of $308,000 in FY 1987 and $350,000 in FY 1988 is included in the above appropriations solely and specifically for the purpose of reducing or eliminating the surgical waiting list existing as of July 1, 1987 and July 1, 1988. Further, sums of $127,000 in FY 1987 and $246,000 in FY 1988 are also included in the above appropriations solely and specifically for pediatric surgeries. Absolutely none of these funds can be expended by the Commission to employ additional staff above those authorized in this Executive Budget and by the Office of Policy and Management, Office of the Governor.

58. Certificate of Need Authority

1986-87	$225,100
1987-88	$234,800

TOTAL—HUMAN RESOURCES

1986-87	$496,387,400
1987-88	$541,197,800

I. JUSTICE

59. JUSTICE CABINET

a. Department of Training

1986-87	$2,052,400
1987-88	$2,114,000

b. Department of State Police

1986-87	$62,253,600
1987-88	$65,312,100

Included in the above appropriation is $752,000 in fiscal year 1986-87 and in fiscal year 1987-88 for the Kentucky Early Warning System (KEWS) operation.

It is the intention of the General Assembly that, in lieu of purchasing a helicopter for State Police, the Governor seriously study the joint utilization by the Department of Natural Resources and State Police of a Bell Jet Ranger owned by Military Affairs. It is the intention of the General Assembly that assignment provide State Police adequate helicopter service for purposes of marijuana eradication and emergency situations such as evacuation or search and Natural Resources adequate services for strip mine investigation and inspections.

Also included in the above appropriation is $200,000 in fiscal year 1987 for the development of the State Police component of the Unified Criminal History Information System (CHIS) which is to be coordinated by the Department of State Police. It is intended that the Cabinet develop a common identifier and data base compatible with all agencies within the CHIS network. It is the intention of the General Assembly that the Department for Information Systems, in coordination with State Police, Jails, Corrections and Administrative Office of the Courts develop, at no charge to either agency, a plan to adapt existing equipment and programs and any proposed equipment and programs into one centralized, compatible system and to present that plan and its cost to the Subcommittee on Justice Corrections and Judiciary, Interim Committee on Appropriations and Revenue by September 30, 1986. In no event shall monies be spent prior to legislative review or for hardware not compatible with the Unified System. The Department for Information Systems shall report on the possibility of utilization of the AVIS system by all agencies involved in CHIS including pretrial services, probation and parole and jails. To the extent possible, the Department for Information Systems shall provide CHIS programming at no charge. It is the intention of the General Assembly that the development of the CHIS system be regarded by DIS as a top priority.

There is hereby appropriated to the Department of State Police funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

c. Justice Administration

1985-86	$50,000
1986-87	$1,514,200
1987-88	$1,581,300

The above appropriation of $50,000 in fiscal year 1985-86 is intended to match available federal grant funds under the Juvenile Justice Program.

Included in the above appropriation is $54,600 in fiscal year 1987 and $80,000 in fiscal year 1988 for Federal grants match and program administration.

Also included in the above appropriation is $837,400 in fiscal year 1987 and $860,300 in fiscal year 1988 for the Medical Examiner Program. It is the intention of the General Assembly that the $70,000 additional funds each year for this program provide personnel and support expansion at the Louisville and/or Lexington labs to be distributed as determined the most feasible by the program director. In no event shall these monies be used for toxicology analysis provided by the Cabinet for Human Resources as it is the intent of the General Assembly that the amount appropriated to that Cabinet for the operation of that laboratory is sufficient and that it is the responsibility of Human Resources to provide the services, as needed, to the Medical Examiners Program according to the memorandum of agreement secured upon the transfer of the program from Human Resources to Justice. It is intended that the study regarding centralization of state laboratory functions provide recommendations for a permanent arrangement that is satisfactory to both agencies.

TOTAL—JUSTICE CABINET

1985-86	$50,000
1986-87	$65,820,200
1987-88	$69,007,400

J. LABOR

60. LABOR CABINET

a. General Administration and Support

1986-87	$141,400
1987-88	$143,700

b. Department of Workplace Standards

1986-87	$1,369,600
1987-88	$1,436,000

TOTAL—LABOR CABINET

1986-87	$1,511,000
1987-88	$1,579,700

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

61. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 . . . . $7,861,300

1987-88 . . . . $8,043,800

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby appropriated; provided, however, that the Secretary of the Finance and Administration Cabinet shall certify as to the advisability of such expenditure and the Governor shall approve such expenditure by written order.

Included in the above appropriation is $87,600 in fiscal year 1987 and $92,100 in fiscal year 1988 for the forestry products utilization program. A market study for secondary wood products shall be delivered to the Interim Joint Appropriations and Revenue Committee by July 1, 1987.

b. Department for Environmental Protection

1986-87 . . . . $10,965,000

1987-88 . . . . $11,517,600

c. Department for Surface Mining Reclamation and Enforcement

1986-87 . . . . $8,400,900

1987-88 . . . . $8,592,900

Included in the above appropriation is $1,000,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is hereby appropriated to the Department.

d. General Administration and Support

1986-87 . . . . $2,954,800

1987-88 . . . . $3,045,600

TOTAL—NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

1986-87 . . . . $30,182,000

1987-88 . . . . $31,199,900

Maxey Flats water management activity funds of $610,000 in fiscal year 1987 and $645,000 in fiscal year 1988 shall be reserved in a separate account for the purposes of final site decommissioning; unexpended fiscal year 1987 funds shall carry forward to fiscal year 1988. No monies shall be expended from this account unless the Natural Resources Cabinet certifies to the State Budget Director, copy to the Interim Joint Appropriations and Revenue Committee, of the extreme necessity to prevent exposure to contaminated materials.

62. ENVIRONMENTAL QUALITY COMMISSION

1986-87 . . . . $86,200

1987-88 . . . . $88,600

63. KENTUCKY NATURE PRESERVES COMMISSION

1986-87 . . . . $215,400

1987-88 . . . . $227,900

64. FLOOD CONTROL ADVISORY COMMISSION

1986-87	$120,800
1987-88	$126,700

TOTAL—NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1986-87	$30,604,400
1987-88	$31,643,100

L. PUBLIC PROTECTION AND REGULATION

65. OFFICE OF THE SECRETARY

1986-87	$335,700
1987-88	$353,000

66. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1986-87	$1,560,300
1987-88	$1,608,400

67. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

1986-87	$758,400
1987-88	$782,900

68. BOARD OF TAX APPEALS

1986-87	$218,800
1987-88	$225,800

69. DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

1986-87	$2,332,700
1987-88	$2,527,900

70. DEPARTMENT OF INSURANCE

1986-87	$1,670,800
1987-88	$1,715,400

71. KENTUCKY STATE RACING COMMISSION

1985-86	$20,000
1986-87	$465,600
1987-88	$479,600

72. KENTUCKY HARNESS RACING COMMISSION

1985-86	$20,000

1986-87 . . . . $552,300

1987-88 . . . . $568,400

73. DEPARTMENT OF MINES AND MINERALS

1985-86 . . . . $161,000

1986-87 . . . . $7,281,400

1987-88 . . . . $7,688,300

74. DEPARTMENT OF PUBLIC ADVOCACY

1986-87 . . . . $7,446,600

1987-88 . . . . $7,763,400

75. PUBLIC SERVICE COMMISSION

1986-87 . . . . $4,402,900

1987-88 . . . . $4,773,900

Included in the above appropriation is $88,100 in fiscal year 1986-87 which may be used for the capital project in Part V.

76. REGISTRY OF ELECTION FINANCE

1985-86 . . . . $51,400

1986-87 . . . . $299,300

1987-88 . . . . $311,800

TOTAL—PUBLIC PROTECTION AND REGULATION CABINET

1985-86 . . . . $252,400

1986-87 . . . . $27,324,800

1987-88 . . . . $28,798,800

M. REVENUE CABINET

77. REVENUE CABINET

a. General Administration and Support

1986-87 . . . . $5,187,600

1987-88 . . . . $5,441,600

Included in the above appropriation is the funding for the Office of the Secretary, Revenue Estimating and Economic Analysis, and the programs of the Department of Professional and Support Services.

b. Property Valuation Administrators

1986-87 . . . . $11,640,400

1987-88 . . . . $11,997,900

c. Department of Processing and Enforcement

1986-87	$24,336,100
1987-88	$25,639,000

d. Department of Property Taxation

1986-87	$3,932,500
1987-88	$4,282,700

TOTAL—REVENUE CABINET

1986-87	$45,096,600
1987-88	$47,361,200

N. TOURISM

78. SECRETARY

1986-87	$676,400
1987-88	$708,600

79. BREAKS INTERSTATE PARK

1986-87	$239,400
1987-88	$175,000

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

80. DEPARTMENT OF TRAVEL DEVELOPMENT

1986-87	$4,219,300
1987-88	$4,215,500

81. DEPARTMENT OF PARKS

1986-87	$17,281,700
1987-88	$20,202,200

Included in the above appropriation is $16,300 in fiscal year 1986-87 and $427,500 in fiscal year 1987-88 for debt service on Parks projects.

82. KENTUCKY HORSE PARK

1986-87	$2,068,200
1987-88	$2,117,100

Included is $1,400,000 in fiscal year 1986-87 and $1,400,000 in fiscal year 1987-88 for the debt service requirement of the Project 29 Revenue Bonds.

83. STATE FAIR BOARD

1986-87 . . . . $6,303,700

1987-88 . . . . $6,534,100

Included in the above appropriation is at least $5,803,700 in fiscal year 1986-87 and $6,034,100 in fiscal year 1987-88 for debt service. Also included in the above appropriation is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for the North American International Livestock Exposition.

TOTAL—TOURISM CABINET

1986-87 . . . . $30,788,700

1987-88 . . . . $33,952,500

O. TRANSPORTATION

84. TRANSPORTATION CABINET

a. General Administration and Support

1986-87 . . . . $321,100

1987-88 . . . . $330,100

b. Air Transportation

1986-87 . . . . $1,508,600

1987-88 . . . . $1,554,000

Included in the above appropriation is $71,100 in fiscal year 1986-87 and $73,200 in fiscal year 1987-88 for debt service.

c. Rail Transportation

1986-87 . . . . $81,700

1987-88 . . . . $84,200

d. Public Transportation

1986-87 . . . . $814,000

1987-88 . . . . $833,700

Included in the Public Transportation appropriation is $10,000 in fiscal year 1986-87 and $5,000 in fiscal year 1987-88 for operating assistance to the Augusta Ferry in Bracken County.

TOTAL—TRANSPORTATION CABINET

1986-87 . . . . $2,725,400

1987-88 . . . . $2,802,000

TOTAL—EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1985-86 . . . . $10,380,500

1986-87 . . . . $2,921,790,400

1987-88 . . . . $3,190,098,400

Included in the above amounts is $16,135,800 in fiscal year 1986-87 and $8,587,800 in fiscal year 1987-88 for capital projects directly funded in Part V.

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1987, and for the fiscal year ending June 30, 1988, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1986-87 or fiscal year 1987-88 and any balance forwarded to the credit of any such account from the previous year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all trust and agency funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1987, and during the fiscal year ending June 30, 1988, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures, a comparative statement of any revised estimated receipts and expenditures with amounts provided in the Executive Budget as adopted by the 1986 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management, the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. SECRETARY OF STATE

All operating receipts from all activities of the Office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

2. BOARD OF ELECTIONS

1986-87	$150,000
1987-88	$111,300

3. TREASURY

1986-87	$216,400
1987-88	$165,000

4. DEPARTMENT OF LAW

1986-87	$1,976,400
1987-88	$2,117,900

5. COUNTY ATTORNEY

1986-87	$12,800
1987-88	$-0-

6. AUDITOR OF PUBLIC ACCOUNTS

1986-87	$732,000
1987-88	$753,900

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any monies due that county government for the term of one hundred and twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting County Audits if additional revenues are needed to continue the operation of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) will change the method by which federal monies to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1986 General Assembly.

7. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87	$644,200
1987-88	$663,600

b. Disaster and Emergency Services

1986-87	$75,000
1987-88	$75,000

8. DEPARTMENT OF PERSONNEL

a. General Operations

1986-87 . . . . $2,121,200

1987-88 . . . . $2,182,000

b. Workers' Compensation Benefits and Reserve

1986-87 . . . . $5,020,900

1987-88 . . . . $5,174,800

The above appropriations represent estimates of the funds necessary to operate this program. In the event that additional funds are required to adequately maintain this program, it is the intent of the General Assembly that such necessary funds are hereby appropriated.

9. DEPARTMENT OF LOCAL GOVERNMENT

1986-87 . . . . $1,695,400

1987-88 . . . . $1,676,900

10. COUNTY FEES

	1986-87	1987-88
Jefferson County	$11,104,800	$11,437,900
Kenton County	1,905,900	1,963,100
Campbell County	1,052,100	1,083,600
Fayette County	3,577,500	3,684,800
Daviess County	1,125,700	1,159,500
Pike County	1,270,300	1,308,400

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, Daviess, and Pike are for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law. This is to be paid, by the State, to these officials when their claims for fees have been presented in the form and manner prescribed by law and approved by the Secretary of the Finance and Administration Cabinet. Each Fiscal Court of said counties are to receive twenty-five percent (25%) of said fees as required by KRS 64.350.

11. KENTUCKY RETIREMENT SYSTEMS

1986-87 . . . . $1,897,400

1987-88 . . . . $1,935,800

12. CAPITAL PLAZA

1986-87 . . . . $1,739,500

1987-88 . . . . $1,761,600

Included above is $1,410,400 in fiscal year 1986-87 and $1,446,200 in fiscal year 1987-88 for debt service payment of the Capital Plaza. Also included in the above appropriation is $329,100 in fiscal year 1986-87 and $315,400 in fiscal year 1987-88 for general operations.

13. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy	$273,000	$281,000

b. Board of Architects	57,100	58,800
c. Athletic Commission	70,000	71,100
d. Board of Auctioneers	122,300	127,200
e. Board of Barbers	112,500	115,800
f. Board of Chiropractic Examiners	35,000	36,500
g. Board of Dental Examiners	184,000	185,000
h. Board of Embalmers and Funeral Directors	102,000	103,500
i. Board of Engineers and Land Surveyors	297,900	306,900
j. Board of Hairdressers and Cosmetologists	533,400	549,300
k. Board of Hearing Aid Dealers	10,800	11,300
l. Board of Landscape Architecture	11,700	12,000
m. Board of Medical Licensure	607,000	625,200
n. Board of Nurses	945,600	974,000
o. Nursing Home Administrators Licensure Board	44,900	47,600
p. Board of Ophthalmic Dispensers	12,000	12,400
q. Board of Optometric Examiners	36,500	37,500
r. Board of Pharmacy	288,400	302,400
s. Board of Physical Therapy	51,700	53,300
t. Board of Podiatry	3,000	3,000
u. Board of Proprietary Education	70,200	71,400
v. Board of Psychology	24,200	25,200
w. Real Estate Commission		
1. Examination and Licensing	625,100	664,000
2. Real Estate Education Research and Recovery	492,000	507,800
x. Board of Social Workers	41,000	43,000
y. Board of Speech Pathologists and Audiologists	12,500	13,100
z. Board of Veterinary Examiners	88,800	91,400

14. PUBLIC EMPLOYEES DEFERRED COMPENSATION SYSTEM

1986-87 .... $173,700

1987-88 .... $171,300

15. KENTUCKY REINSURANCE ASSOCIATION

1986-87 . . . . $5,308,100

1987-88 . . . . $5,464,900

16. GOVERNMENTAL SERVICES CENTER

1986-87 . . . . $890,600

1987-88 . . . . $931,300

17. COMMISSION ON WOMEN

1986-87 . . . . $1,300

1987-88 . . . . $3,200

18. DEPARTMENT OF AGRICULTURE

1986-87 . . . . $500,900

1987-88 . . . . $526,600

B. COMMERCE

19. DEPARTMENT OF ECONOMIC DEVELOPMENT

1986-87 . . . . $380,800

1987-88 . . . . $344,800

20. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1986-87 . . . . $501,900

1987-88 . . . . $516,300

21. DEPARTMENT OF THE ARTS

1986-87 . . . . $217,700

1987-88 . . . . $221,700

22. TOBACCO RESEARCH BOARD

1986-87 . . . . $16,600

1987-88 . . . . $17,200

C. CORRECTIONS

23. CORRECTIONS CABINET

1986-87 . . . . $8,264,100

1987-88 . . . . $8,770,900

D. EDUCATION AND HUMANITIES

24. DEPARTMENT OF EDUCATION

a. General Administration

1986-87 . . . . $1,691,700

1987-88 . . . . $1,775,200

b. Education for Exceptional Children

1986-87 . . . . $399,000

1987-88 . . . . $505,200

c. Instruction

1986-87 . . . . $50,000

1987-88 . . . . $70,000

d. Local Services

1986-87 . . . . $5,000

1987-88 . . . . $1,000

e. Vocational Education

1986-87 . . . . $19,868,500

1987-88 . . . . $20,479,800

f. Vocational Rehabilitation

1986-87 . . . . $400,000

1987-88 . . . . $412,000

g. Administrative Services and Budget Management

1986-87 . . . . $153,800

1987-88 . . . . $155,800

25. KENTUCKY EDUCATIONAL TELEVISION

1986-87 . . . . $150,000

1987-88 . . . . $265,500

26. HISTORICAL SOCIETY

1986-87 . . . . $266,600

1987-88 . . . . $306,900

27. LIBRARY AND ARCHIVES

1986-87 . . . . $609,900

1987-88 . . . . $679,600

28. DEPARTMENT FOR THE BLIND

1986-87	$1,862,900
1987-88	$2,072,400

29. ORAL HISTORY COMMISSION

1986-87	$500
1987-88	$500

30. HERITAGE COUNCIL

1986-87	$500
1987-88	$500

31. TEACHERS' RETIREMENT SYSTEM

1986-87	$1,651,900
1987-88	$1,709,300

E. ENERGY

32. KENTUCKY ENERGY CABINET

1986-87	$527,500
1987-88	$410,000

F. FINANCE AND ADMINISTRATION

33. FINANCE AND ADMINISTRATION CABINET

a. Office of the Secretary

1986-87	$350,100
1987-88	$360,600

b. State Office for Social Security

1986-87	$379,400
1987-88	$398,800

c. Department of Administration

1986-87	$7,611,000
1987-88	$8,076,100

d. Department of Facilities Management

1986-87	$24,722,400
1987-88	$25,343,700

e. Department of Information Systems

1986-87	$24,648,300
1987-88	$26,767,800

G. HIGHER EDUCATION

34. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87	$9,619,200
1987-88	$8,593,900

Included in the above appropriation is at least $959,700 in fiscal year 1986-87 and at least $51,300 in fiscal year 1987-88 for State Student Incentive Grants. Also included in the above appropriation is at least $2,307,000 in fiscal year 1986-87 and at least $1,406,700 in fiscal year 1987-88 for Kentucky Tuition Grants. Furthermore, included in the above appropriation is $200,000 in fiscal year 1986-87 and $200,000 in fiscal year 1987-88 to be granted to the Governor's Scholars Program. The above appropriation also includes $1,234,600 in fiscal year 1986-87 and $1,336,100 in fiscal year 1987-88 for the Work Study Program, from which funds may be expended for Distinguished Scholarship Awards if the necessary legislation is passed by the 1986 Legislature.

Included in the above appropriation is $500,000 in fiscal year 1986-87 and $1,000,000 in fiscal year 1987-88 for Teacher's Scholarships, as enacted in House Concurrent Resolution 5 and House Bill 6 of the 1985 Extraordinary Session of the General Assembly. Also included is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for Math and Science Scholarships as enacted in House Bill 6 of the 1985 Extraordinary Session of the General Assembly.

35. UNIVERSITY OF KENTUCKY

1986-87	$251,605,100
1987-88	$262,187,000

Included in the above appropriation is $1,811,800 for debt service in fiscal year 1987-88 to support one-half of the $20,370,000 of bond supported equipment purchases authorized in the capital construction section of this Act. Included in the General Fund section of this Act under the University of Kentucky, debt service is provided to support the other half of these equipment purchases.

36. UNIVERSITY OF LOUISVILLE

1986-87	$86,962,000
1987-88	$88,546,200

37. EASTERN KENTUCKY UNIVERSITY

1986-87	$35,844,200
1987-88	$36,693,700

38. WESTERN KENTUCKY UNIVERSITY

1986-87	$26,150,700
1987-88	$26,628,000

39. MOREHEAD STATE UNIVERSITY

1986-87	$17,459,800
1987-88	$17,459,800

40. MURRAY STATE UNIVERSITY

1986-87 .... $24,272,100

1987-88 .... $24,627,400

41. KENTUCKY STATE UNIVERSITY

1986-87 .... $6,003,500

1987-88 .... $6,061,500

42. NORTHERN KENTUCKY UNIVERSITY

1986-87 .... $15,299,600

1987-88 .... $15,696,300

H. HUMAN RESOURCES

43. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87 .... $1,801,400

1987-88 .... $2,567,200

2. Benefits

1986-87 .... $2,270,000

1987-88 .... $2,600,000

b. Department for Employment Services

1986-87 .... $2,020,200

1987-88 .... $2,080,800

c. Department for Health Services

1986-87 .... $2,799,200

1987-88 .... $2,972,400

d. Department for Mental Health/Mental Retardation

1986-87 .... $37,646,900

1987-88 .... $38,391,000

e. Department for Social Services

1986-87 .... $6,074,600

1987-88 .... $5,772,600

f. Administration and Program Support

1986-87	$6,058,000
1987-88	$6,227,200

Any agency receipts (type "13" and "14" i.e., agency, trust and revolving accounts which are unrestricted as to use) which accrue in excess of the budgeted levels during fiscal year 1987 shall be carried forward as a reserve account for replacement of any federal fund reductions from budgeted levels which may occur prior to January 1, 1988. The balance of such reserve fund remaining on January 1, 1988, shall be expended for the following purpose, an AFDC payments increase and an increase in reimbursement to personal care homes.

Included in the above appropriation is $270,000 in fiscal year 1986-87 and $300,000 in fiscal year 1987-88 for debt service on the L & N Building.

g. Commission for Handicapped Children

1986-87	$525,000
1987-88	$581,400

h. Certificate of Need Authority

1986-87	$118,900
1987-88	$122,400

I. JUSTICE

44. JUSTICE CABINET

a. Department of Training

1986-87	$8,885,000
1987-88	$9,313,600

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to his regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $8,500,000 in fiscal year 1986-87 and $8,925,000 in fiscal year 1987-88 receipts pursuant to KRS 136.392 for the purpose of the Kentucky Law Enforcement Foundation Program as enacted by the 1984 General Assembly. Also, included is $153,000 in fiscal year 1986-87 and $174,600 in fiscal year 1987-88 for the operation of the Kentucky Law Enforcement Council program and the administration of the Kentucky Law Enforcement Foundation Program Fund.

It is the intention of the General Assembly that no changes be made in the KLEFPF fund during the FY 1986-88 Biennium as there is the potential that should all currently eligible persons participate, the fund could not provide benefits at the current level. It is recommended that during the Biennium, the Department of Training pursue an aggressive policy of training the 1,000 eligible non-participants by providing local training, by arranging personnel substitutions through local or state law enforcement agencies, by studying the effect of requiring all agency members to participate, by studying any change resulting from not requiring the chief to pursue training, or any other means feasible in order to establish a reliable level of participation for future decision-making. It is also recommended that during the interim reliable measurements of fund receipts be developed for fund projections.

b. Department of State Police

1986-87	$1,474,000
1987-88	$1,600,500

c. Justice Administration

1986-87 .... $829,000

1987-88 .... $828,600

J. LABOR

45. LABOR CABINET

a. General Administration and Support

1986-87 .... $2,197,000

1987-88 .... $2,292,500

b. Department of Worker Claims

1986-87 .... $70,087,400

1987-88 .... $71,939,500

Included in the above appropriation is $83,000 in fiscal year 1986-87 which may be used for the capital project in Part V.

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 .... $6,150,100

1987-88 .... $7,081,300

Included in the above appropriation is $323,000 in fiscal year 1986-87 and $326,000 in fiscal year 1987-88 from the Water Patrol Fund as established by KRS 235.330 for operation and maintenance of the locks and dams on the Kentucky River.

b. Department for Environmental Protection

1986-87 .... $602,300

1987-88 .... $935,900

c. Department for Surface Mining Reclamation and Enforcement

1986-87 .... $124,300

1987-88 .... $128,000

d. General Administration and Support

1986-87 .... $197,400

1987-88 .... $265,000

47. KENTUCKY NATURE PRESERVES COMMISSION

1986-87 .... $67,400

1987-88 .... $51,000

L. PUBLIC PROTECTION AND REGULATION

48. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1986-87	$3,500
1987-88	$3,500

49. DEPARTMENT OF FINANCIAL INSTITUTIONS

1986-87	$3,018,200
1987-88	$2,903,300

50. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1986-87	$400,500
1987-88	$386,600

51. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1986-87	$12,212,400
1987-88	$12,525,900

52. DEPARTMENT OF INSURANCE

1986-87	$3,099,500
1987-88	$3,198,100

Included in the above appropriation is $277,900 in fiscal year 1986-87 and $272,500 in fiscal year 1987-88 which may be used for the capital project in Part V.

53. KENTUCKY STATE RACING COMMISSION

1986-87	$3,548,200
1987-88	$3,595,900

54. BACKSIDE IMPROVEMENT COMMISSION

1986-87	$548,200
1987-88	$550,400

55. KENTUCKY HARNESS RACING COMMISSION

1986-87	$1,173,200
1987-88	$1,223,800

56. DEPARTMENT OF MINES AND MINERALS

1986-87	$1,109,100
1987-88	$1,109,100

57. DEPARTMENT OF PUBLIC ADVOCACY

1986-87	$145,900
1987-88	$155,900

58. PUBLIC SERVICE COMMISSION

1986-87	$8,300
1987-88	$8,500

M. REVENUE

59. REVENUE CABINET

a. General Administration and Support

1986-87	$35,000
1987-88	$35,000

General Administration and Support is comprised of the Office of the Secretary, the Office of Revenue Estimating and Economic Analysis, and the Department of Professional and Support Services.

b. Property Valuation Administrators

1986-87	$717,000
1987-88	$1,007,900

c. Department of Processing and Enforcement

1986-87	$749,300
1987-88	$771,800

d. Department of Property Taxation

1986-87	$1,216,200
1987-88	$905,900

N. TOURISM

60. DEPARTMENT OF TRAVEL DEVELOPMENT

1986-87	$21,600
1987-88	$12,800

61. DEPARTMENT OF PARKS

1986-87	$31,369,800
1987-88	$30,530,600

Included in the above appropriation is $850,000 in fiscal year 1986-87 and $850,000 in fiscal year 1987-88 for the debt service on revenue bonds issued for Project 14 and Project 16 issued in 1965 and 1967, respectively.

62. KENTUCKY HORSE PARK

1986-87	$3,179,400
1987-88	$3,267,200

63. KENTUCKY STATE FAIR BOARD

1986-87	$14,269,600
1987-88	$14,527,300

64. FISH AND WILDLIFE RESOURCES

1986-87	$11,910,500
1987-88	$12,553,900

O. TRANSPORTATION

65. TRANSPORTATION CABINET

a. Air Transportation

1986-87	$50,000
1987-88	$50,000

b. Public Transportation

1986-87	$58,900
1987-88	$58,900

c. Highways

1986-87	$515,000
1987-88	$515,000

TOTAL

1986-87	$1,009,038,500
1987-88	$986,798,600

PART III

FEDERAL FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1987, and for the fiscal year ending June 30, 1988, Federal subventions, grants, contracts and other Federal Funds received, income from investments and other miscellaneous Federal receipts received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Federal Fund out of which shall be established separate accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All Funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapter 12, 42, 45, and 48.

In the event receipts received and credited to any Federal Fund account during fiscal year 1986-87 or fiscal year 1987-88, and any balance forwarded to the credit of any such account from the previous fiscal year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administrative Cabinet; provided, however, that institutions of higher education may receive and expend all Federal Funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Federal Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1987, and during the fiscal year ending June 30, 1988, all receipts placed to the credit of the Federal Fund for such year, out of which has been established a Federal Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures for the ensuing fiscal year, a comparison of any revised estimates with the amounts provided in the Executive Budget as adopted by the 1986 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

No state agency which shall be entitled to receive federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive such entitlement without notification to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. DEPARTMENT OF LAW

1986-87 .... $1,420,500

1987-88 .... $1,378,200

2. COMMONWEALTH'S ATTORNEY

1986-87..................... $10,000

1987-88$-0-

3. DEPARTMENT OF AGRICULTURE

1986-87 .... $2,150,100

1987-88 .... $1,880,400

4. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

1986-87.................... $967,500

1987-88.................... $937,700

b. Disaster and Emergency Services

1986-87 ....$1,285,900

1987-88 ....$1,442,600

5. DEPARTMENT OF LOCAL GOVERNMENT

1986-87 ....$30,485,900

1987-88 ....$30,592,700

B. COMMERCE

6. DEPARTMENT OF THE ARTS

1986-87...................$497,800

1987-88...................$497,800

C. CORRECTIONS

7. CORRECTIONS CABINET

1986-87...................$376,500

1987-88...................$376,500

D. EDUCATION AND HUMANITIES

8. DEPARTMENT OF EDUCATION

a. General Administration

1986-87 ....$75,115,000

1987-88 ....$75,866,100

b. Education for Exceptional Children

1986-87 ....$21,834,300

1987-88 ....$22,459,400

c. Instruction

1986-87 ....$75,832,200

1987-88 ....$78,140,600

d. Local Services

1986-87....................$24,000

1987-88$-0-

e. Vocational Education

1986-87 ....$16,906,200

1987-88 ....$17,413,400

f. Vocational Rehabilitation

1986-87 .... $19,961,100

1987-88 .... $21,351,100

g. Administrative Services and Budget Management

1986-87 .... $2,227,400

1987-88 .... $2,322,000

9. OFFICE OF THE SECRETARY

1986-87 .... $93,300

1987-88 .... $93,400

10. LIBRARIES AND ARCHIVES

1986-87 .... $1,559,500

1987-88 .... $1,520,100

11. KENTUCKY EDUCATIONAL TELEVISION

1986-87 .... $18,000

1987-88 .... $18,000

12. DEPARTMENT FOR THE BLIND

1986-87 .... $3,350,400

1987-88 .... $3,454,900

13. GOVERNOR'S COUNCIL ON VOCATIONAL EDUCATION

1986-87 .... $120,000

1987-88 .... $120,000

14. HERITAGE COUNCIL

1986-87 .... $633,200

1987-88 .... $606,500

E. ENERGY

15. KENTUCKY ENERGY CABINET

1986-87 .... $1,086,500

1987-88 .... $935,200

F. HIGHER EDUCATION

16. HIGHER EDUCATION ASSISTANCE AUTHORITY

1986-87 .... $927,600

1987-88 .... $927,600

17. UNIVERSITY OF KENTUCKY

1986-87	$36,971,800
1987-88	$37,932,100

18. UNIVERSITY OF LOUISVILLE

1986-87	$8,252,200
1987-88	$8,252,200

19. EASTERN KENTUCKY UNIVERSITY

1986-87	$6,858,700
1987-88	$6,878,000

20. WESTERN KENTUCKY UNIVERSITY

1986-87	$5,029,100
1987-88	$5,029,100

21. MOREHEAD STATE UNIVERSITY

1986-87	$3,402,000
1987-88	$3,402,000

22. MURRAY STATE UNIVERSITY

1986-87	$5,883,300
1987-88	$6,304,200

23. KENTUCKY STATE UNIVERSITY

1986-87	$6,343,600
1987-88	$6,549,200

24. NORTHERN KENTUCKY UNIVERSITY

1986-87	$1,968,700
1987-88	$1,968,700

G. HUMAN RESOURCES

25. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1986-87	$47,590,000
1987-88	$49,908,400

2. Benefits

1986-87 .... $122,931,200

1987-88 .... $125,108,300

The Secretary of the Cabinet is hereby directed to transfer at least 10% of federal receipts for the Home Energy Assistance Program Block Grant to the Aging Services Subprogram for Home Care for the Elderly in the Department for Social Services, in each year of the biennium.

b. Department for Medicaid Services

1. Administration

1986-87 .... $16,755,900

1987-88 .... $17,745,300

2. Benefits

1986-87 .... $461,781,700

1987-88 .... $513,692,200

c. Department for Employment Services

1. Administration - Unemployment Insurance

1986-87 .... $17,692,500

1987-88 .... $18,540,300

2. Benefits - Unemployment

1986-87 .... $173,685,000

1987-88 .... $205,768,000

3. Employment Services

1986-87 .... $84,526,900

1987-88 .... $87,351,200

d. Department for Health Services

1986-87 .... $66,935,100

1987-88 .... $68,982,200

e. Department for Mental Health/Mental Retardation Services

1986-87 .... $8,250,000

1987-88 .... $7,793,000

f. Department for Social Services

1986-87 .... $70,219,900

1987-88 .... $70,133,400

g. Administration and Program Support

1986-87 .... $14,721,500

1987-88 .... $13,739,200

Included in the above appropriation is $1,303,100 in fiscal year 1986-87 for debt service on the L&N Building.

h. Commission for Handicapped Children

1986-87 .... $3,076,400

1987-88 .... $3,076,400

i. Certificate of Need Authority

1986-87................... $252,200

1987-88................... $258,400

H. JUSTICE

26. JUSTICE CABINET

a. Justice Administration

1986-87 .... $2,577,200

1987-88 .... $2,583,600

b. Department of State Police

1986-87 .... $3,227,500

1987-88 .... $3,360,900

I. LABOR

27. LABOR CABINET

a. Department of Workplace Standards

1986-87 .... $3,769,600

1987-88 .... $3,931,800

b. Kentucky Occupational Safety and Health Review Commission

1986-87................... $290,400

1987-88................... $314,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

28. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1986-87 .... $4,368,800

1987-88 .... $4,235,200

b. Department for Environmental Protection

1986-87 .... $5,761,300

1987-88 .... $5,501,900

c. Department for Surface Mining Reclamation and Enforcement

1986-87 .... $11,525,200

1987-88 .... $11,720,700

d. General Administration and Support

1986-87 .... $1,339,200

1987-88 .... $1,385,400

K. PUBLIC PROTECTION AND REGULATION

29. DEPARTMENT OF MINES AND MINERALS

1986-87 .... $777,400

1987-88 .... $777,400

30. DEPARTMENT OF PUBLIC ADVOCACY

1986-87 .... $229,700

1987-88 .... $227,800

31. PUBLIC SERVICE COMMISSION

1986-87 .... $173,100

1987-88 .... $169,000

32. DEPARTMENT OF INSURANCE

1986-87 .... $156,700

1987-88 .... $197,700

33. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION

1986-87 .... $218,800

1987-88 .... $300,000

34. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1986-87 .... $13,800

1987-88 .... $13,800

L. TRANSPORTATION

35. TRANSPORTATION CABINET

a. Air Transportation

1986-87	$11,900
1987-88	$12,300

b. Rail Transportation

1986-87	$237,000
1987-88	$70,000

c. Public Transportation

1986-87	$2,621,800
1987-88	$2,700,300

d. Highways

1986-87	$260,107,400
1987-88	$260,387,700

If federal receipts due to the Commonwealth are in excess of the above appropriations, such funds are hereby appropriated.

TOTAL

1986-87	$1,766,500,900
1987-88	$1,852,371,900

PART IV

ROAD FUND

KRS 48.010(13)(g) provides that the Road Fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and monies derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways.

The following monies are appropriated from the Road Fund:

A. TRANSPORTATION

1. TRANSPORTATION CABINET

a. General Administration and Support

1986-87	$39,253,400
1987-88	$38,499,700

b. Highways

1986-87	$476,366,600
1987-88	$477,730,300

1. Included within the above appropriation is $24,318,900 in fiscal year 1986-87 and $22,753,400 in fiscal year 1987-88 for state construction projects. The Secretary of Transportation may use State Construction appropriations for emergencies which occur on county roads, e.g., bridge failures, severe snow and ice, slips and slides.

2. Included within the above appropriation is $45,446,200 in fiscal year 1986-87 and $45,458,500 in fiscal year 1987-88 for Toll Road lease rental payments.

3. Included within the above appropriation is $18,346,700 in fiscal year 1986-87 and $18,324,500 in fiscal year 1987-88 for debt service on general obligation highway bonds.

4. Included within the above appropriation is $43,168,300 in fiscal year 1986-87 and $43,178,200 in fiscal year 1987-88 for Resource Recovery Road lease rental payments. It is the intent of the General Assembly that the Secretary of Transportation shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required shall be transferred from the proceeds of the tax levied on severance or processing of coal by KRS 143.020 to meet the obligation.

5. Included within the above appropriation is $36,045,300 in fiscal year 1986-87 and $36,045,100 in fiscal year 1987-88 for Economic Development Road lease rental payments.

6. Included within the above appropriation is $32,526,000 in fiscal year 1986-87 and $32,370,000 in fiscal year 1987-88 for the County Road Aid Program.

7. Included within the above appropriation is $46,287,000 in fiscal year 1986-87 and $46,065,000 in fiscal year 1987-88 for the Rural Secondary program. Included in the Rural Secondary appropriation is $187,500 in fiscal year 1986-87 and $187,500 in fiscal year 1987-88 for funding of the Kentucky Transportation Center.

8. Included within the above appropriation is $13,969,500 in fiscal year 1986-87 and $13,902,500 in fiscal year 1987-88 for the Municipal Aid program.

9. Included within the above appropriation is $500,000 in fiscal year 1986-87 and $500,000 in fiscal year 1987-88 for the Coal Recovery Road Fund.

10. Included within the above appropriation is an amount which shall not be more than $30,000 in fiscal year 1986-87 for the casting and placement of appropriate markers at the Greenup Dam Bridge in memory of Jesse Stuart and at the South Shore Bridge in memory of U.S. Congressman Carl D. Perkins.

11. Included within the above appropriation is $3,000,000 in fiscal year 1986-87 and $3,000,000 in fiscal year 1987-88 to establish a Snow and Ice Removal Reserve Fund. The appropriations to this Reserve Fund shall be deposited in an interest bearing account and all interest income shall accrue back to this Reserve Fund.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures, in any Fiscal Year of the 1986-88 Biennium exceed $6,000,000. In the event that the provision is implemented, the Transportation cabinet shall certify to the Appropriations and Revenue Committee and the Transportation Committee the documented need and usage of this fund.

Any expended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1986-87 fiscal year, shall not lapse, but shall continue into fiscal year 1987-88.

12. Included within the above appropriation is $19,742,100 in fiscal year 1986-87 and $18,539,700 in fiscal year 1987-88 for resurfacing of the state highway system.

TOTAL - TRANSPORTATION CABINET

1986-87	$519,003,000
1987-88	$519,729,700

Included in the above amounts are $3,825,000 in fiscal year 1986-87 and $2,014,900 in fiscal year 1987-88 for capital projects directly funded in Part V.

ROAD FUND SURPLUS EXPENDITURE PLAN

Pursuant to KRS 48.140, there is hereby established a plan for the expenditure of Road Fund tax receipts up to two and one-half percent (2.5%) in excess of the tax receipts estimate for the Road Fund as determined by subsection (3) of KRS 48.120. This Road Fund surplus expenditure plan provides for additional moneys for non-recurring expenditures of the Transportation Cabinet for which an appropriation was not made in this Appropriation Act, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance, and support of the Transportation Cabinet based on detailed estimates provided by the Revenue Cabinet in the amount of $481,325,000 in fiscal year 1985-86 and $506,420,000 in fiscal year 1986-87, therefore the General Assembly does hereby authorize the expenditure of excess receipts up to a maximum of $12,003,100 in fiscal year 1986-87 and $12,660,500 in fiscal year 1987-88 as provided in this Road Fund surplus expenditure plan.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1985-86 and fiscal year 1986-87, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through the Road Fund surplus expenditure plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of Transportation in a timely manner.

The Secretary of Transportation is hereby authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, for the purposes stated herein: Thirty-five percent (35%) of the available receipts shall be used for non-recurring State Construction projects and thirty-five percent (35%) of the available receipts shall be used for non-recurring State Resurfacing projects. Twenty percent (20%) of the available receipts shall be used toward the accelerated retirement of the Road Fund's Debt Service obligations and ten percent (10%) of the available receipts shall be used for any other non-recurring highway related activity as deemed necessary by the Secretary of the Transportation Cabinet.

PART V

CAPITAL CONSTRUCTION FUND

Monies in the Capital Construction fund are appropriated for the following capital projects. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1986-88 biennium.

A. COMMERCE

	1986-87	1987-88
1. Office of the Secretary		
a. Economic Development Projects Bond Fund (1985-86 - $92,000,000)		
Bond Fund	20,000,000	

B. CORRECTIONS

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. New Medium Security Institution Bond Fund (1985-86 - $44,000,000)

2. Kentucky State Reformatory - Construction of New Dormitory-Prototype

Bond Fund	3,400,000	

3. Northpoint Training Center - Roof Replacement		
Bond Fund	816,000	
4. Luther Luckett Correctional Complex - Sewage System Renovation		
Bond Fund	317,100	
5. Blackburn Correctional Complex - Replacement of Sewer Distribution Lines		
Investment Income	387,400	
6. Blackburn Correctional Complex - Roof Replacement		
Bond Fund	502,500	
7. Kentucky State Penitentiary - Flashing, Guttering, and Downspout Repair of Administration Building and Cellhouses 1, 2, and 4		
Bond Fund	122,000	
8. Miscellaneous Maintenance Projects		
Bond Fund	250,000	250,000
Investment Income	250,000	250,000
TOTAL	500,000	500,000
9. Northpoint Training Center - Fire Truck		
Agency Fund		70,000
10. Correctional Industries - Tractor/Refrigerator Van		
Agency Fund		75,000
11. Correctional Industries - Metal Press		
Agency Fund		125,000
12. Kentucky Correctional Institution for Women - Facility Upgrade		
Bond Fund		
13. Kentucky State Reformatory - Construction New Dormitory		
Bond Fund		
14. Kentucky State Penitentiary - Sewage and Water Plant Upgrade		
Bond Fund		

C. EDUCATION AND HUMANITIES

1. Kentucky Educational Television		
a. Six Electronic Field Production Cameras		
Investment Income	240,000	120,000

b. Roof Replacement - Network Center		
Investment Income	38,000	
Bond Fund	162,000	
Total	200,000	
c. Second Channel Facilities and capabilities		11,478,000
2. Department of Education		
a. Computer Numerical Control Vertical Milling Center—Breckinridge County Area Vocational Education Center		
General Fund	69,000	
3. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Bond Fund	26,400,000	105,000,000

D. ENERGY

1. Roof Replacement and Repair		
General Fund	77,000	5,000
2. Laboratory Ventilation System		
General Fund	400,000	

E. FINANCE AND ADMINISTRATION

The Bond fund project listed below is authorized in fiscal year 1986-87 so that preliminary work on the project may proceed. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

1. Department for Administration		
a. 4361 Upgrade		
General Fund	128,200	
2. Department for Facilities Management		
a. Emergency Repair, Maintenance and Replacement Fund		
Investment Income	2,500,000	3,000,000
General Fund	1,750,000	2,000,000
Total	4,250,000	5,000,000
b. Capital Construction and Equipment Purchase Contingency Fund		
Investment Income	500,000	500,000
General Fund	1,012,200	588,800
Total	1,512,200	1,088,800

c. Capital and Capitol Annex Mechanical Renovation		
Investment Income	1,180,000	
Bond Fund	10,000,000	
Total	11,180,000	
d. Health Service Building Asbestos Abatement		
Investment Income	3,000,000	
e. Centralized Laboratory Building-Planning		
General Fund	750,000	
f. Capital Grounds Master Plan Investment Income (1985-86 - $500,000)		
General Fund	500,000	500,000
Investment Income	1,500,000	
Total	2,000,000	500,000
g. Mines and Minerals Building		
Investment Income	3,066,100	
h. Miscellaneous Projects		
Investment Income	500,000 550,000	

3. Information Systems

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation. This debt program is consistent with the definition of Building Projects in KRS 56.440(1)(4).

a. 2 Cache Disk Controllers @ $432,200 each		
Bond Fund	432,200	432,200
b. 4 Cache Disk Controllers @ $120,000 each		
Agency Fund	240,000	240,000
c. 7 Disk Storage/Control Devices @ $130,000 each		
Bond Fund	390,000	520,000
d. 12 Disk Drives @ $110,000 each		
Bond Fund	550,000	770,000
e. Computer Memory Upgrade		
Bond Fund	400,300	
f. 2 Communications Controllers @ $200,599 each		
Bond Fund	200,500	200,500

g. 4 Magnetic Tape Controllers @ $95,200 each		
Bond Fund	380,800	
h. 16 Magnetic Tape Drives @ $75,200 each		
Bond Fund	1,203,200	
i. Internet Expansion		
Bond Fund	303,000	
j. Distributed Processor System		
Agency Fund	840,000	840,000
k. High Speed Page Printer		
Bond Fund	400,600	
l. Network Performance Management System		
Bond Fund	250,500	
m. 4 Disk Controller Upgrades @ $364,200 each		
Bond Fund	1,456,800	
n. Central Site CPU Replacement		
Bond Fund		6,004,000
o. Microfiche Processor		
Bond Fund	130,400	
p. 2 Programmable Configuration Systems @ $100,000 each		
Bond Fund	200,000	
q. Automatic Loading Tape Library System		
Bond Fund	250,400	
r. Microwave System		
Bond Fund	252,000	
s. 2 Artificial Intelligence Units @ $150,300 each		
Bond Fund	150,300	150,300
t. 3 Distributed Processing Systems @ $1,005,000 each		
Bond Fund	1,005,000	2,010,000
u. Central Site CPU Upgrade		
Bond Fund		6,004,000

v. High Speed Page Printer-Office Automation		
Bond Fund	400,600	
w. Minicomputer System - Teachers' Retirement		
Bond Fund	251,000	
x. Minicomputer System - Commerce		
Bond Fund	260,900	

F. GOVERNMENT OPERATIONS

1. Department of Agriculture

For the major equipment purchase displayed in the Department of Agriculture as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

a. Stockyard Unit		
Agency Fund	70,000	
2. Capital Plaza Authority		
a. Replacement of Bleachers		
Investment Income	500,000	
3. Department of Military Affairs		
a. Major Maintenance and Repairs		
Investment Income	750,000	750,000
Federal Fund	850,100	335,200
Total	1,600,100	1,085,200
b. Sikorsky S-76 Lease/Rental		
Investment Income	481,200	481,200
c. Frankfort National Guard Armory		
Investment Income	1,941,400	
Federal Fund	3,410,800	
Total	5,352,200	
d. Ashland National Guard Armory		
Investment Income		53,700
Federal Fund		76,900
Total		130,600

e. Army Aviation Support Facility - Frankfort	
Investment Income	52,400
Federal Fund	241,000
Total	293,400
f. Frankfort Armory Alterations	
Investment Income	120,700
Federal Fund	269,600
Total	390,300
g. Maintenance of Helicopters	
Investment Income	
h. Unit Training Equipment Site-Clay City	
Investment Income	111,100
Federal Fund	1,108,100
Total	1,219,200
i. Danville National Guard Armory	
Investment Income	221,000
Federal Fund	57,900
Total	278,900
j. Richmond Armory Addition	
Investment Income	138,800
Federal Fund	18,600
Total	157,400
k. Prestonsburg Armory Addition	
Investment Income	16,800
Federal Fund	17,300
Total	34,100
l. Hazard Armory Expansion	
Investment Income	16,000
Federal Fund	21,900
Total	37,900

m. Barbourville Armory Addition		
Investment Income		19,800
Federal Fund		20,400
Total		40,200
n. Jackson Armory Expansion		
Investment Income		9,000
Federal Fund		19,000
Total		28,000
o. Capital City Airport - Runway Overlay		
Investment Income	450,000	
4. Secretary of State		
a. Microfilm Processor		
General Fund	61,400	

G. HIGHER EDUCATION

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund of each university at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Eastern Kentucky University	
a. Foster Music Building - Phase II	
Bond Fund	550,000
b. Moore Building	
Bond Fund	500,000
c. Air Condition Chillers Repair/Replace	
Bond Fund	2,000,000
d. Domestic Hot Water Boilers Repair/Replacement	
Bond Fund	350,000
e. Martin Hall Repairs	
Bond Fund	300,000
f. Communications Network	
Bond Fund	3,000,000
g. Begley Building	
Bond Fund	1,500,000

h. Memorial Science Building		
Bond Fund	800,000	
i. University Building		
Agency Fund	2,186,000	
j. Roark Building Renovation		
Agency Fund	500,000	
k. Case Hall		
Agency Fund	152,500	
l. Energy Management Expansion		
Agency Fund	500,000	
m. Gibson Building		
Agency Fund	500,000	
n. Pedestrian Overpass		
Agency Fund	545,000	
o. Property Acquisitions		
Agency Fund	1,100,000	
2. Kentucky State University		
a. Blazer Library Addition/Annex Renovation		
General Fund	2,850,000	
b. Hathaway Hall		
General Fund	700,000	
c. Rosenwald Building Renovation		
General Fund	400,000	
d. Chiller Addition Central Plant		
General Fund	350,000	
e. Bell Gymnasium Renovation		
General Fund	350,000	
f. North Campus Roads/Parking		
General Fund	125,000	
g. Conversion of Old Heating Plant to Welding Shop		
General Fund		225,000

h. South Campus Roads, Parking, and Walkways	
General Fund	250,000
i. Handicapped Access	
General Fund	200,000
j. Russell Court Apartments - HVAC Upgrade	
General Fund	125,000
k. Roof Repairs	
General Fund	75,000
l. Maintenance Building/Warehouse - HVAC Upgrade	
General Fund	50,000
m. Hathaway Hall Repainting	
General Fund	80,000
n. Alumni House HVAC Upgrade and Interior Maintenance	
General Fund	25,000
3. Morehead State University	
a. Roof Repairs/Replacement	
Bond Fund	1,020,000
b. Air Conditioning System Repair	
Bond Fund	445,000
c. Fire Safety	
Bond Fund	200,000
d. Boiler Controls Repair	
Bond Fund	245,000
e. Water Treatment Plant Renovation	
Bond Fund	255,000
f. Energy Management	
Bond Fund	225,000
g. Handicapped Accessibility	
Bond Fund	220,000
h. Campus Resurfacing/Repairs	
Bond Fund	240,000

i. Fields Hall Renovation		
Agency Fund	323,000	
j. Thompson Hall Renovation		
Agency Fund	2,800,000	
k. Artificial Surface Installation		
Agency Fund		850,000
4. Murray State University		
a. Industry/Technology Building		
Bond Fund	12,500,000	
b. Old Fine Arts Renovation		
Agency Fund	1,100,000	
c. Blackburn Science Roof		
Agency Fund	295,000	
5. Northern Kentucky University		
a. Applied Science/Technology Center		
Bond Fund	10,000,000	
b. Communications Network		
Agency Fund	386,000	
c. Library Mechanical Improvements		
Agency Fund	350,000	
d. Landrum Hall Drainage		
Agency Fund	273,000	
e. Outdoor Recreational Facility		
Agency Fund	455,000	
f. Energy Conservation Nunn Hall		
Agency Fund	226,000	
g. Regents Hall Refurbish		
Agency Fund	195,000	
6. University of Kentucky Community College System		
a. Lexington - Academic Technical Building		
Bond Fund	3,600,000	

b. Elizabethtown - Academic Technical Building		
Bond Fund	3,600,000	
c. Hazard - Technical Learning Resource Center		
Bond Fund	2,900,000	
d. Prestonsburg - Technical Learning Resource Center		
Bond Fund	2,900,000	
e. Madisonville - Academic/Auditorium Building		
Agency Fund	500,000	
Bond Fund	2,400,000	
Total	2,900,000	
f. Owensboro - New Campus		
Bond Fund	12,500,000	
g. Jefferson DT - Broadway Building Renovation Phase I		
Agency Fund	375,000	
h. Southeast - Newman Hall Renovation		
Agency Fund	300,000	
i. Jefferson DT - Broadway Building Renovation Phase II		
Agency Fund		375,000
7. University of Kentucky Main Campus		
a. Robotics Facility		
Bond Fund	10,000,000	
b. Patterson Tower Fire Safety		
Agency Fund	725,000	
Bond Fund	1,050,000	
Total	1,775,000	
c. Clinic Wing Fire Safety		
Agency Fund	500,000	
d. Alumni Gym Life Safety		
Agency Fund	255,000	
e. Patterson Hall Plumbing		
Agency Fund (1985-86 350,000)		

f. Diagnostic Services Upgrade Phase I, II		
Agency Fund	500,000	250,000
g. Ambulatory Surgical Services Center		
Agency Fund	1,200,000	
h. Hospital Renovation Phase I, 2nd Floor Clinic		
Agency Fund	300,000	
i. Utilities Upgrade II		
Agency Fund	200,000	
j. Medical Science Research Laboratory Restoration Phase I		
Agency Fund	262,000	
k. Research Fume Hoods Phase III		
Agency Fund	400,000	
l. Student Hospital Auditorium Renovation		
Agency Fund	300,000	
m. Fire Alarm System		
Agency Fund		200,000
n. Stroke Unit		
Agency Fund		500,000
o. Old Pharmacy Building Renovation		
Agency Fund		2,500,000
p. Medical Science Research Laboratory Restoration Phase II		
Agency Fund		210,000
q. Hospital First Floor Refurbishing		
Agency Fund		300,000
r. Nuclear Medicine/Radiation Medicine Upgrade		
Agency Fund		500,000
s. Gaines Center Renovation		
Agency Fund		450,000
t. Hospital Renovation Phase III		
u. Hospital Expansion Phase II		
8. University of Louisville		

a. Student Activities Center		
Agency Fund	3,500,000	
Bond Fund	17,200,000	
Total	20,700,000	
b. Kersey Library Expansion		
Agency Fund	1,425,000	
c. K, C, G Renovation		
Agency Fund	800,000	
d. Animal Care Facility		
Agency Fund	3,235,800	
e. Theatre Arts Building Renovation		
Agency Fund	435,000	
f. Faculty and Staff Development Center		
Agency Fund		225,000
g. Carmichael Building Renovation		
Agency Fund	500,000	
h. Schneider Hall		
Bond Fund	350,000	
9. Western Kentucky University		
a. Academic/Athletic #1 Roof		
Bond Fund	330,000	
b. Air Conditioning Units Replacement		
Bond Fund	440,000	
c. Academic/Athletic #2 Structural Repairs		
Bond Fund	200,000	
d. Underground Steam/Electrical Distribution Lines Replacement		
Bond Fund	700,000	
e. Life Safety Improvements		
Bond Fund	500,000	
f. Coal Boilers #1 and #2 Replacement		
Bond Fund	978,000	

g. Asbestos Removal		
Agency Fund	40,000	
Bond Fund	360,000	
Total	400,000	
h. Jones Jaggers Roof Replacement		
Bond Fund	155,000	
i. Air Conditioning Unit Replacement		
Bond Fund	440,000	
j. Ivan Wilson Humidity Control		
Bond Fund	235,000	
k. Downing University Center Roof		
Agency Fund	63,000	
Bond Fund	162,000	
Total	225,000	
l. Environmental Science/Technical Building Roof		
Bond Fund	180,000	
m. Helm-Cravens Humidity Control		
Bond Fund	220,000	
n. Chemistry Lab Renovation		
Bond Fund	1,430,000	
o. Hazardous Materials Storage		
Agency Fund	197,000	
p. Instructional Television Station		
Agency Fund	275,000	
q. Alteration of Dairy Barn		
Agency Fund		210,000
r. Snell Hall Renovation/Reconstruction		
Agency Fund		1,263,000

Bond authorization supported by General Fund appropriations for the projects listed below are authorized in the first year of the biennium so that preliminary work on the projects may proceed. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

Murray State University:	
Industry and Technology Building	12,500,000
Northern Kentucky University:	
Applied Science/Technology Center	10,000,000
University of Kentucky:	
Robotics Facility	10,000,000
Community College System:	
Lexington: Academic-Technical Building	3,600,000
Elizabethtown: Academic-Technical Building	3,600,000
Hazard: Technical Learning Resource Center	2,900,000
Prestonsburg: Technical Learning Resource Center	2,900,000
Madisonville: Academic Auditorium Building	2,400,000
Owensboro: New Campus	12,500,000
University of Louisville:	
Student Activities Center	12,800,000

EQUIPMENT LISTING

10. Eastern Kentucky University

Funding for the following Eastern Kentucky University equipment purchases will be from Agency Funds.

a. Planetarium Equipment	950,000
b. Academic Computing	185,000
c. Computer Numerical Control Turning Center	
d. CAD Drafting System	80,000
e. Technovate Pneumatic Unit	
f. Pool Filter	75,000
g. Diesel Buses	

11. Kentucky State University

a. Two Buses	
Agency Fund	200,000
b. Office Furnishings—Agriculture Research Facility	
Federal Funds	132,000

12. Morehead State University

Funding for the following Morehead State University equipment purchases will be from Agency Funds.

a. Word Processing System	85,000	
b. Computer Equipment	220,000	
c. Industrial Robots	247,000	
d. Computer Numerical Control Machining Center	150,000	
e. Library Computer System	226,000	
f. Bulldozer	50,000	
g. Tour Bus	140,000	
h. Garbage Truck	50,000	
i. Minor Equipment	95,000	
j. Telephone System	400,000	400,000
k. Computer Numerical Control Lathe	125,000	
l. Administrative Computing	200,000	200,000
m. Dishwasher		

13. Murray State University

Funding for the following Murray State University equipment purchases will be from Agency Funds.

a. Direct Access Storage Devices (4)		131,000
b. Communication Sub System		75,500
c. Microcomputer Laboratory	113,000	245,000
d. Computer Graphics Terminal (3)		60,900
e. Scanning Electronic Microscope		61,800
f. Scanning Digitizer (Microdensitometer)		90,000
g. Equipment for IBM PC-AT Laboratory		92,000

14. Northern Kentucky University

Funding for the following Northern Kentucky University equipment purchases will be from Agency Funds.

a. Offset Press	17,000	
b. Mainframe Computer System	181,920	181,920
c. Minicomputer Upgrade	406,800	
d. Library Compact Shelving	150,000	
e. Office Automation	328,500	

f. Touch-Tone Data Entry Response System	96,700	
g. CAD/CAM/SMF	352,500	
h. Xerox 9900 VR Lease Purchase	31,348	31,348

15. University of Kentucky

Funding for the following University of Kentucky equipment purchases will be from Bond Funds, except as noted. Bond authorizations supported by General Fund appropriations for the equipment listed below are authorized in the first year of the biennium so that there will be no unnecessary delay in equipment acquisition. However, debt service has been included beginning in the second year. Therefore, the sale of these bonds cannot take place until after January 1, 1987.

- Metal: Surface Area—Pore Volume Analyzer	80,000
- EE: Triple Monochrometer Spectrometer	140,000
- Metal: Electron Beam Furnace	80,000
- AES: Controlled Environment Rooms	102,000
- Math: Superminicomputer	
Federal Fund	150,000
Agency Fund	150,000
Bond Fund	295,000
Total Fund	595,000
- Math: LISP System II	104,000
- Phys: Upgrade of HP A900	70,000
- Phys: Computer (Ridge Compatible)	50,000
- AES: Plasma Emission Spectrograph	75,000
- AES: Transmission Electron Microscope	114,000
- AES: X-ray System	50,000
- Metal: Melt Spinning Apparatus	85,000
- EE: Array Processor and Minicomputer	80,000
- EE: Microwave Plasma Semiconductor	135,000
- Metal: Photoelectron Spectrometer	
Federal Fund	300,000
Bond Fund	300,000
Total	600,000
- EE: Minicomputer	50,000

- EE: Spectrometer	60,000
- Geol: Microprobe Electron Microscope	
Federal Fund	179,000
Bond Fund	250,000
Total	429,000
- Metal: 200 KEV Scanning Trans EM	
Federal Fund	350,000
Bond Fund	350,000
Total	700,000
- Path: Zeiss IBAS Image Analysis Processor	100,000
- OB/GYN: Array Analysis, Processing	50,000
- PHR: Minicomputer and Associated Software, DB, etc.	165,000
- PHR: 200 MH2 NMR Spectrometer	126,000
- Prev.M: Cryolect	135,000
- BCH: ABI Olegonucleotide Synthesizer	50,000
- BCH: ABI Peptide Synthesizer	80,000
- ANA: Video Image Analyzer	75,000
- MMI: FACS 420 w/2nd Laser Upgrade	50,000
- MC: Beckman Metolobic Cart	50,000
- MC: BD Analyzer for Molecular Biology	110,000
- Card: Color Flow Doppler Unit	150,000
- Med: Dual Photon Absorption Unit	65,000
- MC: Imaging System	50,000
- PHR: Super High Performance Liquid Chromatographic System	55,000
- OB/GYN: Real Time Flow Cytometry Processor	75,000
- PHR: 300 MH2 NMR Spectrometer	400,000
- ANA: Electron Microscope	195,000
- BCH: Gas-Phase Protein Sequencer	100,000
- MC: Animal Surgery Fluoroscopic Unit	300,000
- PHR: Fluoroscopic X-Ray Instrument	90,000

- PHR: Bioreactor for Mammalian Cell Culturing with Instrumentation	115,000
- PHR: Analytical Preparative HPTLC System	50,100
- Med: Pilot Size Freeze Dryer	90,000
- Med: Gamma 500 Laser Microprobe Mass Analyzer	300,000
- AEN: Infrared Imaging System	80,000
- MA: LISP PROLOG Machine	100,000
- BIO: Walk-in Enviromental Control Rooms (2)	80,000
- GLY: Updating X-Ray Diffraction Equipment	125,000
- BIO: Atomic Absorption Spectrophotometer and Chloridometer	100,000
- CHE: 400 MHz NMR	500,000
- CHE: Intensified Diode Array	57,000
- WGRL: Biomedical Image and Signal Processing System	160,000
- GYL: Seismic Array	78,000
- ENGR: AT&T/Harris Upgrade	350,000
- Academic Equipment Pool Equipment Items less than 50,000	5,950,000
- CC: Scanning EM	350,000
- CC: Transmission EM	400,000
- MMI: Sterilization and Cleaning System	65,000
- SBRC: Fluorescence Activated Cell Sorter Analyzer	70,000
- BCH: Microprocessor Based Spectrapolarimeter	60,000
- OBG: Autoclave	50,000
- OPH: YAG Laser	50,000
- MMI: 2-D Gel Scanner/Computer Analysis	50,000
- RSD: Universal Testing Machine	92,000
- CNU: Amino Acid Analyzer (Beckman)	50,000
- SBRC: Philips ElectronMicroscope	250,000
- Metal: Analytical Balance	70,000
- EE: Programmable Frequency Synthesizer	65,000
- EE: Microwave Programmable Receiver	77,000
- BIO: Varian HPLC/Amino Acid Analyzer	70,000

- CHE: Field Ionization/Field Desorption Ion Source	60,000
- PHYS: Klystron Bunched Terminal	260,000
- AEN: Laser Doppler Fluid Turbulence System	140,000
- Med: BD Facts 4—Fluoroscopic Activated Cell Sorter	130,000
- ASC: Energy Dispersive X-Ray Fluorescence Analyzer	60,000
- ENT: Oligo (DNA) Synthesizer	50,000
- EM: Thermovision System (Infrared Temperature Measure)	57,000
- BIO: Sterilization and Cleaning System	75,000
- BIO: Respiratory Mass Spectrometer	50,000
- BIO: Update CAD4 X-Ray Diffractometer to DEC 11/237	50,000
- VS: AGA Thermovision Basic Medical Package and Digital Image System	61,000
- WGRL: Cardiovascular Data Acquisition System	52,000
- ASC: Bechman Edman Sequencer	86,000
- ENT: Protein Sequencer	100,000
- MACS: Intelligent Terminals Workstation	70,000
- HPR: High Speed Video System	55,000
- SBRC: Leitz Fluoroscence Microscope with Vario-Orthamate Camera	50,000
- PHYS: Polarized Ion Source	300,000
- BCH: Applied Biosystems Bas Phase Sequencer	120,000
- CHE: Argon Laser	85,000
- PM: Microwave Plasma Emission Detector	80,000
- CHE: VUV Photoelectron Spectrometer	80,000
- OBG: Liquid Chromatograph	100,000
- BIO: Flow Sytometer/Cell Sorter	325,000
- MMI: Upgrade of Cell Analysis and Sorting Facilities	100,000
- ENT: Amino Acid Analyzer	75,000
- PM: Mass Spectrometer	120,000
- HORLA: Irrigation System	75,000
- OBG: Flow Cytometer	250,000
- FOR: 930 Wheel Loader	74,000

- Med: Laser Catheter	130,000
- CHE: Mass Spectrometer	
Federal Fund	325,000
Bond Fund	325,000
Total	650,000
- BCH: X-Ray Chrystalography Equipment	500,000
- VS: Transmission Scanning Electron Microscope	
Agency Fund	325,000
Bond Fund	400,000
Total	725,000
- Med: Angiographic/Computer Equipment	250,000
- MGSC: Vax 11/750 and Related Equipment	500,000
- PHY: Stainless Steel Accelerator Tube	75,000
- Med: Pulse Simulator	50,000
- ENT: Gas Chromatogram Mass Spectrometry System	50,000
- CNU: AA Spectrophotometer	55,000

Funding for the following University of Kentucky equipment purchases will be from Agency Funds "except as noted."

- Lib: Auto Circulation System	104,000	
- PPD: Energy Management System	413,000	416,000
- MCPPD: Energy Management System III	100,000	100,000
- Dent: Patient Billing Minicomputer	320,000	
- Med CS: Wang VS 300	195,700	
- CC: Data Communications Equipment	70,000	
- CC: Data Communications Network	350,000	
- CC: Mainframe Computer	925,000	
- CC: Disk Storage 3081K	350,000	
- Cancer: Minicomputer and Software	262,000	
- Med CS: Systems Methodology and Security System	50,000	
- Cancer: MRI Unit VAX XI Computer	510,000	
- Cancer: MRI Helium Recovery System	90,000	

- CC: Computer Disk Storage	120,000	
- Bus Svcs: Voice Data Communications System Bond, Note, or Deferred Payment without Interest	5,466,000	
- CES: Closed Caption TV Delivery System	150,000	
- CES: Minicomputer	100,000	
- Arch: Computer for Graphics Processing	85,000	
- ANA: Morgue Equipment	150,000	
- Med: Perinatal Laboratory Equipment/OB-GYN Agency Fund	75,000	
Federal Fund	75,000	
Total	150,000	
- Prev M: Equipped Medical Van		
Federal	163,000	
- Purch: Minicomputer	59,000	
- Bus Svcs: Computer Upgrade	210,000	
- B&E: Minicomputer System	103,000	
- CC: Optical Reader	110,000	
- Print/Dupl: Computer Systems	58,000	
- PPD: Tandem Bucket Trucks/Boom	80,000	
- PPD: Garbage/Compactor Truck	100,000	
- PPD: Backhoe Loader	75,000	
- Print: Offset Printing Press	180,000	
- UExt: Computer System	106,000	
- OSPA: Computer Upgrade	70,000	
- WBKY: Transmitter w/Antenna and Lines	130,100	
- MC: Multi-Channel Atomic Absorption	85,000	
- PHR: Power X-Ray Diffractometer System	58,600	
- BCH: 500MHz Nuclear Magnetic Resonance Spectrometer—Varian	550,000	
- CC: Computer Disk Storage	150,000	
- CC: Laser Printer		500,000
- CC: Data Communications Equipment		70,000
- CCC: Data Communications Network		250,000

- Metal: Surface Analysis System		150,000
- Barnay Chair		77,000
- Grad: Minicomputer Upgrade		50,000
- MC: Video Attachment for Biplane Fluoroscope		100,000
- FA: Lighting Board and Dimmer System		100,000
- OIR: Videotape Record/Edit Package		
- CC: Array Processor for Mainframe		600,000
16. University of Kentucky Hospital		
a. Radiation Med Simulator	385,000	
b. Blood Bank System Upgrade	90,000	
c. Patient Care System Base Package	350,000	
d. IBM 3380 Disk Drives for Data Storage	338,000	
e. Blood Hemotology Automatic Analyzer	193,000	
f. Heart Pump	65,000	
g. OPTH Microscope	85,000	
h. Fluoroscopy Unit	350,000	
i. Electronic Imaging System	400,000	
j. Diagnostic Radiographic Unit	175,000	
k. Electrophysiology Equipment	100,000	
l. Vascular Diagnostic Equipment	200,000	
m. Cryo Unit	100,000	
n. Krypton Laser	130,000	
o. Ultrasound Unit	150,000	
p. Echocardiology Equipment	200,000	
q. Neonatal Monitor System	78,000	
r. Laser Printer to print all forms	90,000	
s. IBM 3705 Type Communications Controller	52,000	
t. Evoked Potential System	75,000	
u. Digit Viewer System	62,000	
v. Magnetic Resonance Imaging		1,400,000
w. Emergency Medicine Helicopter		1,350,000

x. Radiology System		75,000
y. Chemistry Analyzer		115,000
z. Fluoroscopic Unit		400,000
aa. 3083-like Computer System Enhancement		243,000
bb. 3380-like Disk Drives		338,000
cc. Radiation Medicine Unit		800,000
dd. Radiographic Unit		160,000
ee. Electronic Imaging System		240,000
ff. Nuclear Medicine Camera		245,000

17. University of Kentucky Community College System

a. Minicomputers (3)	450,000	
b. Energy Management System (Jefferson DT)	130,000	
c. Energy Management System (Ashland)	100,000	
d. Data Communications System (Ashland)	95,000	
e. Minicomputers (3)		450,000

18. University of Louisville

Funding for the following University of Louisville equipment purchases will be from Agency Funds.

a. CPU Memory Upgrades (3)	100,000	200,000
b. Direct Access Storage Devices (2)	200,000	200,000
c. CPU Upgrade		550,000
d. Data Communications Network		350,000
e. Laser Printer		250,000
f. Optical Character Scanner		75,000
g. Computer Output Microfiche System		130,000
h. Graphics Plotter		75,000
i. Super Minicomputer	250,000	
j. Array Scientific Processor		350,000
k. Computer Data Acquisition System (2)	75,000	75,000
l. Digital Computer System	218,200	
m. Molecular Graphics System	100,600	
n. Computer Control Laboratory Unit	96,000	

o. Hybrid Computer	104,000	
p. Hardware for Touchtone Registration	127,100	
q. Human Movement Recording System		85,000
r. Scanning Auger Spectrometer		250,000
s. Automated Packed Column Absorption Unit		60,000
t. Transmission Electron Microscope		84,700
u. Learning Laboratory System		90,000
v. Scanning Electron Microscope		50,000
w. Gas Chromatograph/Mass Selective Detector		67,000
x. Electronic Microprobe (WDX System)	65,000	
y. YAG Laser		50,000
z. Nuclear Magnetic Resonance Spectrometer		97,000
aa. Laser-Raman Spectrophotometer		58,000
bb. Scanning Cytophotometer		50,200
cc. Metallurgical Microscope		60,000
dd. Ultrasonic Surgical Aspirator		60,000
ee. Magneticircular Dishroism Spectrophotometer		74,500
ff. Mobile Hyperthermia System		116,200
gg. Elemental Analyzer		52,200
hh. Animal Cell and Specimen Irradiator		112,200
ii. Edax Quantitative Unit		75,000
jj. Flow Cytometer		120,000
kk. X-Ray Diffraction Unit		80,000
ll. 47 Passenger Bus		150,000
mm. Gas Chromatograph/Mass Spectrometer/Data System		175,000
nn. Central Processing Unit (CPU)	650,000	650,000
oo. Telecommunications System	700,000	

19. Western Kentucky University

Funding for the following Western Kentucky University equipment purchases will be from Agency Funds.

a. Minor Equipment Pool	900,000	
b. Real Time Image Processor	62,000	

c. Hughes Liquid Crystal Lt. Valve	62,000	
d. Copper Laser	60,000	
e. Nuclear Magnetic Resonance Spectrometer	112,500	
f. Optical Character Reader	14,400	
g. Computer Processor	310,000	
h. Computer Storage Control	60,000	
i. Local Area Network	152,300	
j. Computer Processing Unit and Related Equipment		498,600

H. CABINET FOR HUMAN RESOURCES

For capital construction projects displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Administration and Program Support		
a. Miscellaneous Projects		
General Fund	1,100,000	
Investment Income		1,000,000
b. L & N Building Bond Fund (1985-86—$4,500,000)		
2. Department for Mental Health/Mental Retardation		
a. Outwood Intermediate Care Facility—Renovation—Sewage Treatment Plant		
General Fund	250,000	
b. Central State Hospital—Secure Psychiatric Facility		
General Fund		2,250,000
c. Eastern State Hospital—Recreational/Activities Building		
Bond Fund (1985-86—$167,100)		
Agency Fund (1985-86—$437,900)		
d. Eastern State Hospital—Kitchen and Dining Room Building		
Bond Fund (1985-86—$1,250,000)		

I. JUSTICE

For the capital construction project displayed in this section as a General Fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriations.

1. State Police

a. Heating Cooling System—Information Services Building		
Investment Income	450,000	
General Fund	50,000	
Total	500,000	
b. Automated Fingerprint System		
Investment Income	1,100,000	100,000
General Fund		700,000
c. Energy Dispersive X-Ray		
Investment Income	195,000	
d. Gas Chromatograph/Mass Spectrometer		
Investment Income	325,000	
e. X-Ray Diffraction Apparatus		
Investment Income	185,000	
	f. Mayfield Post	
Bond Fund		750,000

J. LABOR

For the major equipment purchase displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Department of Worker's Claims		
a. Special Fund Computer		
Agency Fund	83,000	

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

For the capital construction project displayed in this section as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. State-Owned Dam Repair		
Investment Income	1,000,000	

The above appropriation shall not be used to repair dams owned by the Department of Fish and Wildlife Resources.

2. Kentucky Abandoned Lands—Reclamation Program		
Federal Fund	50,400,000	36,710,000

The Commonwealth believes mining practices prior to the 1977 Federal Surface Mining Act have significantly degraded drinking water supplies.To promote the health and safety of its citizens, the

Commonwealth supports a high priority ranking for those Abandoned Mine Land projects that insure safe and dependable water supplies.

3. GC/Mass Spectrometer		
Investment Income	247,000	
4. Nature Preserves Acquisition Fund		
Agency Fund	45,000	45,000

L. PUBLIC PROTECTION AND REGULATION

For the major equipment purchase displayed in this section as agency fund or general fund supported projects it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Department of Insurance		
a. Computer		
Agency Fund	277,900	272,900
2. Public Service Commission		
a. Watthour Standard Testing System		
Agency Fund	88,100	

M. TOURISM

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Parks		
a. Miscellaneous Major Maintenance		
Bond Fund	800,000	
General Fund	2,400,000	500,000
Investment Income		2,700,000
Total	3,200,000	3,200,000
b. Kenlake Lodge—Plumbing		
General Fund	50,000	250,000
c. Lake Cumberland covered pool/lodge expansion		
General Fund	192,000	1,085,000
d. Jenny Wiley Meeting Room—Programming		
General Fund		384,000

e. Greenbo Meeting Room—Programming		
General Fund		100,000
f. Kincaid Lake—Swimming Pool		
Bond Fund	125,000	
General Fund	75,000	
Agency Fund	50,000	
Total	250,000	
g. Taylorsville Lake—design, land purchase, water and sewer improvements, electricity, road access, parking, water storage and boat ramp.		
Bond Fund	808,200	1,585,800
Agency Fund	20,000	180,000
Federal Fund	353,200	1,765,000
Total	1,181,400	3,530,800
h. Lincoln Homestead—Golf Course Irrigation System		
General Fund	44,000	
Bond Fund		220,000
i. Blue Licks—Multipurpose Building		
General Fund	35,000	
Bond Fund		315,000
j. Natural Bridge—Expansion of Kitchen & Dining Room		
General Fund	20,000	
Bond Fund		230,000
k. Coal Museum—Feasibility Study and Land Purchase		
General Fund	25,000	
Bond Fund		150,000

The following projects are authorized to be funded from the Department of Parks appropriation of maintenance funds and are not to exceed $230,000 per project: Green River Campground Expansion, E.P. Tom Sawyer Campground, and Lake Malone Campground Expansion.

2. Kentucky Horse Park		
a. Miscellaneous Major Maintenance		
sInvestment Income	200,000	200,000
b. Master Plan—Development of Show Facilities		
Investment Income	100,000	

c. Covered Arena Completion		
General Fund	1,617,000	
3. State Fair Board		
a. Major Maintenance, Renovation, and Repair Projects under $200,000		
Investment Income	500,000	500,000
Agency Fund	250,000	250,000
Total	750,000	750,000
b. Roof Coating for Coliseum and East and West Wings and Broadbent		
Bond Fund	900,000	
c. Additional Lighting and Rewiring—East and West Wings and Pavilion		
Bond Fund	225,000	
d. Waterproof Stadium, Coliseum and East and West Wings		
Bond Fund	250,000	
e. Garbage Packer		
Agency Fund	125,000	
f. Boom Truck		
Agency Fund		
4. Fish and Wildlife Resources		
a. Miscellaneous Minor Projects		
Agency Fund	596,500	478,500
b. Land Acquisition		
Agency Fund	200,000	
c. Minor Clark Fish Hatchery Renovations		
Agency Fund	100,000	500,000

N. TRANSPORTATION

For the capital construction projects displayed in this section as Road Fund supported projects, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Bourbon County Maintenance Facility		
Road Fund	350,000	
2. Jessamine County Maintenance Facility		
Road Fund		389,900

3. Interactive Graphics		
Road Fund	485,000	
4. Owsley County Maintenance Facility		
Road Fund	350,000	
5. Lyon County Weigh Station		
Road Fund	1,500,000	
6. Boyd County Weigh Station		
Road Fund		1,500,000
7. Pike County Materials Lab		
Road Fund	200,000	
8. Knox County Salt Storage Dome		
Road Fund	90,000	
9. Wolfe County Salt Storage Dome		
Road Fund	90,000	
10. Warren County Salt Storage Dome		
Road Fund	90,000	
11. Rowan County Salt Storage Dome		
Road Fund	90,000	
12. Shelby County Salt Storage Dome		
Road Fund	90,000	
13. Russell County Salt Storage Dome		
Road Fund	90,000	
14. Grant County Salt Storage Dome		
Road Fund	90,000	
15. Central Office Materials Lab Renovation		
Road Fund	200,000	
16. Infrared Spectrophotometer		
Road Fund	50,000	
17. Freeze/Thaw Chamber		
Road Fund	60,000	

18. X-Ray Fluorescence Instrument

Road Fund	125,000

In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any General Fund appropriated debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund. Those projects set forth under the subheading "higher education" are subject to the action and approval of the Council on Higher Education and subject to approval of the Finance and Administration Cabinet. The provisions of KRS 45.750 through 45.990 notwithstanding, it is the intent of the General Assembly that capital construction projects at institutions of higher education involving no state or federal funds, may be authorized between Regular Sessions of the General Assembly, providing that such projects receive prior approval from both the Council on Higher Education and the Secretary of the Finance and Administration Cabinet, and that the Capital Construction and Equipment Purchase Oversight Committee receives prior notification.

Roof repair or replacement projects shall be eligible for Emergency Repair, Maintenance, and Replacement Fund allotments, subject to the provisions of KRS 45.780.

Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440-56.720. Administration of the Economic Development Bond program by the Secretary of Commerce is subject to the guidelines contained herein: 1) Project selection criteria are to be developed by the Secretary of Commerce. The criteria shall include but not be limited to such issues as: a project's job creation and/or job retention potential, degree of public and/or private local involvement, and potential project payback and/or contribution in retiring the associated debt obligation. 2) Projects of state agencies are not eligible for funding from this source unless expressly provided for in the appropriations act. 3) Project selection shall be documented when presented to the Secretary of Finance. Included in the documentation shall be the rationale for selection and expected economic development impact. 4) Following approval by the Secretary of Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the Commerce Cabinet to the next regularly scheduled Capital Construction and Equipment Purchase Oversight Committee meeting for information and review under the provisions of KRS 45.750-45.800.

Inasmuch as the identification of specific projects in a variety of areas of the State Government cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly, to appropriate amounts for specific purposes to projects which are not individually identified herein in the following areas: Repair of State-Owned Dams, Economic Development Projects, Handicapped Access, Fire and Life Safety, and Asbestos Litigation and Abatement projects. Any such projects estimated to cost over $200,000 and equipment estimated to cost over $50,000 shall be reported to the Capital Construction and Equipment Purchase Oversight Committee. All monies transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

There is hereby created an Asbestos Litigation and Abatement account in the Finance and Administration Cabinet. The Asbestos Litigation and Abatement account shall be for the purpose of depositing any funds received as a result of litigation involving the Commonwealth of Kentucky and asbestos manufacturers. Any funds received from a judgment or settlement from this litigation shall be used for all litigation support costs incurred as a result of this litigation, and for cost of asbestos abatement in any building owned by the Commonwealth of Kentucky, and $169,000 in fiscal year 1987 and $138,800 in fiscal year 1988 shall be appropriated from this fund to establish a training and certification program for contractors engaged in asbestos removal, to be administered by the Natural Resources and Environmental Protection Cabinet. In addition, all funds hereby identified in the Finance and Administration Cabinet 1986-88 appropriations expressly for the purpose of asbestos abatement shall be available for expenditure from the Asbestos Litigation and Abatement account. The General Fund shall be reimbursed for any General Fund expenditures for these same purposes from this account.

PART VI

GENERAL PROVISIONS

1. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1986, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500 and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Finance and Administration Cabinet, and the Departments of Treasury and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs.

4. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act except as provided by Chapters 12, 42, 56, 152, 177, and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed, unless otherwise provided by this Act.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon the budget memorandum and supporting legislative and executive records.

6. Any General Fund appropriation made herein in anticipation of a lack, loss, or reduction of Federal funds shall lapse to the General Fund to the extent such Federal Funds otherwise become available.

7. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within seventy-five days upon adjournment of the 1986 General Assembly, to prepare a final budget document based upon the Executive Budget proposal as enacted by the 1986 General Assembly as well as other acts which provide appropriations for the 1986-88 biennium and based upon supporting documentation and legislative records as considered by the 1986 General Assembly. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and such other fiscal data and commentary considered necessary by the Governor's Office for Policy and Management for budget execution and oversight. The enacted budget document and any adjustments thereto approved by the Governor's Office for Policy and Management as provided in each part of this Act or by law, and any supporting documents, shall be communicated to the Interim Joint Committee on Appropriations and Revenue on a regular basis.

8. In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any appropriated General Fund debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund.

9. In the event that funds become available to the Commonwealth pursuant to settlements of litigation brought by the U.S. Department of Energy for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal pricelcontrols were in effect, all such receipts shall be credited to a low income energy assistance trust fund which is hereby established. Monies in this fund shall be invested and interest earnings shall accrue to this fund account. Investment income of the low income energy assistance fund is hereby appropriated to the Human Resources Cabinet to be expended only for weatherization and

related energy conservation activities. The Cabinet for Human Resources shall submit to the Governor and to the Legislative Research Commission a detailed report identifying the specific purposes and amounts to be expended. In addition, a quarterly report shall be made to both the Governor's Office for Policy and Management and the Legislative Research Commission regarding the actual expenditures of these funds.

10. It is the intent of the General Assembly that the Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

11. A Budget Reserve Trust Fund is hereby established. There is appropriated from the General Fund, $50,000,000 for fiscal year 1986-87 and $50,000,000 for fiscal year 1987-88 to the Budget Reserve Trust Fund.

These funds shall be used in the event actual General Fund receipts during the 1986-87 fiscal year or the 1987-88 fiscal year are not sufficient to meet the General Fund appropriation levels authorized by this Act or other general biennial appropriations bills. In addition, allotments from the Budget Reserve Trust Fund may be made for items deemed to be emergency or mandated expenditures elsewhere provided for in this Act.

No allotment or expenditure from the Budget Reserve Trust Fund shall be made except upon approval of the Governor of the Commonwealth. The Secretary of the Finance and Administration Cabinet shall communicate any allotment or expenditure from the Budget Reserve Trust Fund, in writing, to the Interim Joint Committee on Appropriations and Revenue.

Any unexpended balance remaining at the close of the 1986-87 fiscal year, shall not lapse, but shall continue into the 1987-88 fiscal year.

12. There is hereby established a General Fund surplus expenditure plan for fiscal year 1986-87 and fiscal year 1987-88, pursuant to KRS 48.140. This plan is for the expenditure of excess General Fund revenue receipts up to two and one-half percent (2.5%) in excess of the revenue receipts estimate for the General Fund as determined by subsection (3) of KRS 48.120.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1985-86 and fiscal year 1986-87, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess unappropriated General Fund revenue receipts available for expenditure through the General Fund surplus expenditure plan. The amount of excess unappropriated receipts available shall be determined after all allocations required by the Local Government Economic Assistance Fund pursuant to KRS 42.450 have been adjusted.

The Secretary of the Finance and Administration Cabinet is hereby authorized to restore the Budget Reserve Trust Fund to its original level of appropriation in the event that appropriations which have been made to the Budget Reserve Trust Fund have been depleted in whole or in part. No further allotments shall be made for any other purpose.

13. Fiscal year 1985-86 General Funds appropriated by Chapter 418 of the Acts of the 1984 General Assembly to the Remediation Program in the Department of Education that are in excess of existing program needs may be used to fund the Writing-to-Read Lab program in fiscal year 1985-86. At least one Writing-to-Read lab will be placed in each school district in Kentucky. Selection of the school within each school district to receive the lab shall be based upon the school which has the lowest overall KES test scores for kindergarten, first and second graders. The maximum amount available to be used for this purpose shall not exceed $3,000,000.

14. No General Fund allotments to the Corrections Cabinet during the 1984-86 fiscal biennium shall be expended for the purpose of construction or operation of the Geriatrics/Special Needs Unit. The Secretary of Finance is directed to revert such allotments to the General Fund Surplus Account.

Part VII

General Fund Budget Reduction Plan

Pursuant to KRS 48.130, there is hereby established a General Fund Budget Reduction Plan for state government for fiscal year 1986-87 and fiscal year 1987-88. Direct services and obligations essential to the minimum level of constitutional functions are exempted.

In the event of an actual or estimated deficit in General Fund receipts of $2,997,840,000 for fiscal year 1986-87 and $3,199,220,000 for fiscal year 1987-88, the heads of the Executive, Judicial and Legislative Branches shall implement reductions for their respective branches as follows:

1. The Local Government Economic Assistance Fund shall be adjusted to equal revised estimates of receipts pursuant to KRS 42.450.

2. Allotments to the itemized budget units shall be reduced to the extent required to avoid a deficit in fiscal year 1986-87 up to the sum of $23,900,000 for the Executive Branch, $900,000 for the Judicial Branch and $200,000 for the Legislative Branch. Allotments to the itemized budget units shall be reduced to the extent required to avoid a deficit in fiscal year 1987-88 up to the sum of $26,300,000 for the Executive Branch, $1,000,000 for the Judicial Branch and $200,000 for the Legislative Branch. Such reductions shall be in allotments for the programs listed in section B, below, and shall not exceed the amounts listed for each respective program for each respective year.

3. If the allotment reductions made pursuant to paragraph 2., above, are insufficient to eliminate the actual or estimated deficit, then the allotment to the Budget Reserve Trust Fund shall be reduced up to $25,000,000 in each respective fiscal year.

4. If the allotment reductions pursuant to paragraphs 2. and 3., above, are insufficient to eliminate the actual or estimated deficit, then the allotment reductions provided for in paragraph 2., above, shall be repeated. However, in no event shall the total of the allotment reductions made pursuant to paragraph 2., above, and this paragrpah exceed the amounts listed in section B, below, for each respective program for each respective fiscal year.

GENERAL FUND REDUCTION PLAN

FB 1986-88

	Amount of Maximum Reduction	
EXECUTIVE BRANCH BUDGET UNITS	FY 1987	FY 1988
Government Operations		
Executive Office of the Governor		
Office of the Governor		
Operating Costs	21,800	22,600
Office of Childhood Development		40,000
Governor's Office for Policy and Management (GOPM)		
Operating Costs	12,100	13,600
Additional Staff (2)	60,400	52,900
Computer Equipment		200,000
State Planning Fund	100,000	100,000
Department of Law (Attorney General)		
Operating Costs	21,800	22,400
Asbestos Litigation Team		165,500

Victims Advocacy—Additional Staff	55,900	52,000
Statistical Analysis Center	112,500	
Unified Prosecutorial System		
Commonwealth Attorneys		
Operating Costs	65,000	66,800
County Attorneys		
Operating Costs	75,100	76,100
Auditor of Public Accounts		
Operating Costs	12,700	13,100
Department of Agriculture		
Operating Costs	62,400	65,500
Markets—Computerized Marketing	38,500	
Shows and Fairs	25,000	25,000
Pesticides—1 Inspector	22,800	26,000
Pest & Weed Control—Equipment	52,600	40,000
Department of Military Affairs		
General Operations		
Operating Costs	60,500	62,400
Property Maintenance—Maintenance of Armories	29,000	75,000
KY Center for Veterans Affairs	14,400	14,000
Disaster & Emergency Services		
Operating Costs	26,500	26,800
Administration	72,000	30,000
Department for Local Government		
Commissioner's Office		
Urban Affairs Council	21,000	14,000
Program Services		
Model Ordinances	100,000	100,000
Special Funds		
Area Development Fund	1,500,000	1,500,000

KY Center for the Arts—Misc. Maintenance Projects	350,000	350,000
Capital Plaza Authority		
Promotion Costs	25,000	25,000
Commerce		
Office of Secretary		
European Offices	150,000	250,000
KDFA Loans—Expansion	508,000	320,000
Economic Development		
Research and Development—Funding	44,000	24,000
Economic Development		
Riverports Operation	83,000	91,000
Arts—Crafts Development	34,800	37,300
Office of Secretary		
Information System Support		13,900
Arts—Artists in Education	50,000	50,000
Economic Development		
Advertising	30,000	30,000
Economic Development—Minority Business		
Federal Fund Replacement	67,900	71,400
Arts—Arts Support	20,000	100,000
Corrections		
Management		
Jailer Training—$300 Fee Elimination	40,000	40,000
Criminal History Information System	300,000	200,000
Population Projection System	65,000	39,000
Community Services		
Community Drug and Alcohol Program for Parolees	150,000	150,000
Community Sex Offenders Program	153,700	53,700
Advanced Supervision Program	500,000	500,000
Local Facilities—Jail Per Diem Increase	511,700	1,055,700
Controlled Intake Reserve Pool	100,000	100,000

Intensive Supervision—Expansion	337,000	124,800
Adult Institutions		
Sex Offender Program Institutions—50% Reduction	252,900	249,400
Northpoint Voc-Academic Education		150,000
Education & Humanities Agencies		
General Administration		
Education Excellence Fund	1,500,000	3,000,000
Education Innovation Incentive Fund	2,500,000	2,500,000
Exceptional Children Salary Upgrade at KSB & KSD	500,000	350,000
School Foundation Program		
Kindergarten Aides	6,700,000	
Vo-Ed. Transportation	58,900	119,600
Transportation	2,285,000	4,638,500
Voc. Agric. Teachers Extended Employment	212,000	222,000
Power Equalization	5,397,800	3,907,000
Instruction Evaluation Program	1,000,000	1,000,000
Evaluation Fund		9,000,000
Writing Program	1,000,000	2,000,000
Technical Institutes	150,000	150,000
In-Service Programs	500,000	500,000
Gifted & Talented	350,400	757,600
Dropout Prevention	550,000	550,000
Principal Internship	250,000	250,000
Adult Education	1,100,000	1,175,000
Community Education	250,000	250,000
PACE Program	300,000	900,000
Psychologist Consortium		400,000
Local Services		
Out of District	67,000	69,800
Management Assistance Teams	250,000	250,000

Vocational Education		
Reinstatement Costs	2,069,000	
Voc-Ed Centers	500,000	3,300,000
Vocational Rehabilitation Matching Funds	156,800	328,000
Adult & Vocational/Technical Education Improvement Plan		1,500,000
Career Ladder Commission	2,500,000	2,500,000
Bluegrass State Skills Corp.	11,300	11,600
Department for the Blind	31,400	32,300
Ky. School Building Authority	214,400	214,400
Teachers' Retirement System Shortfall in FY 1985-86 Approp.	3,628,800	(3,628,800)
Voc. Agric. Ext. Emp.	27,000	29,000
Commission on Deaf & Hearing Impaired	5,400	5,700
Office of Secretary	4,200	4,600
Governor's Commission on Literacy	800,000	825,000
School Facility Construction Commission	77,700	377,900
Kentucky Educational Television		
Ged, Adult Literacy	209,900	259,000
Historical Society		
Computer Lease	11,000	11,000
Operations	30,200	31,600
Department of Libraries & Archives		
State Library Services	370,000	1,480,000
Oral History Commission Grants	2,500	2,600
Heritage Council		
Grants-in-Aid	16,800	16,400
Energy		
Demonstration Projects Clean Coal Technology	300,000	326,500
Dept. of Energy Research & Development Kentucky Geological Survey	25,400	
Finance and Administration		
Office of the Secretary		
Operating Costs	5,900	21,000

Workers' Compensation Premiums	6,100	6,100
State Veterans War Memorial	100,000	
Department for Administration		
Operating Costs	30,200	83,900
3 Vehicles (Postal Services)	7,000	14,000
Department for Facilities Management		
Operating Costs	42,800	151,400
3 Additional Staff Positions (Real Properties)	50,400	53,100
Debt Service—Capitol & Capitol Annex Renovation		1,230,000
Finance & Administration Cabinet—Capital Budget		
Centralized Laboratory Study	250,000	
Capital Construction & Equipment Purchase Contingency Fund	200,000	
Emergency Repair Maintenance & Replacement Fund	750,000	500,000
Capitol Grounds—Master Plan	250,000	250,000
Higher Education		
Council on Higher Education		
EPSCOR	600,000	600,000
Strategic Plan	-0-	800,000
Personnel	43,200	44,600
Telecommunications Consortium	183,100	188,600
Kentuckiana Consortium	67,000	69,000
KECNET	63,000	64,900
Ky. Higher Education Assistance Authority		
KTG and SSIG Programs	201,900	207,900
Kentucky State University		
Formula Funds	104,900	240,700
Desegregation	186,500	91,400
Baseline funds	25,900	
Eastern Kentucky University		
Debt Service	902,600	944,100

Morehead State University		
Debt Service	350,000	350,000
Formula Funds	198,100	222,400
Murray State University		
Formula Funds	375,100	
Debt Service		691,200
Desegregation	12,400	
Baseline	273,300	
Northern Kentucky University		
Formula Funds	468,800	
Debt Service		541,200
Desegregation	4,000	
Baseline	44,700	
Western Kentucky University		
Debt Service	614,000	798,300
Formula Funds	251,400	107,300
University of Louisville		
Debt Service		1,570,000
Formula Funds	2,418,900	961,400
UK (Including Community Colleges)		
National Institute & Public Administration	300,000	312,600
Debt Service on Deferred Maintenance	129,000	
Formula Funds	4,280,500	
Robotics Operating Fund		1,444,000
Debt Service for Robotics and Equipment		3,170,700
Human Resources		
Social Services		
Emergency Psychiatric Assessment Unit		1,057,000
Expand Adult Day Care	405,800	477,800
32 beds Boys Residential Facility	801,300	1,226,100
5 New Group Homes	563,700	895,500

Expand Day Care and Foster Care	775,000	775,000
Medicaid Services		
Fraud and Abuse Control	500,000	537,500
Health Services		
Poison Control Center	35,000	50,000
Commission for Handicapped Children		
Juvenile Rhematoid Arthritis	120,000	210,000
Mental Health/Mental Retardation		
Community Based Services for the Mentally Retarded	1,250,000	1,375,000
Community Based Services for the Mentally Ill	2,000,000	2,000,000
Medicaid Services		
Hospice	244,300	403,500
Social Services		
Homecare Expansion	1,850,000	2,500,000
Health Services		
Expand Prenatal Services	2,000,000	1,734,360
Social Services		
Expand Spouse Abuse Shelter Capacity	500,000	
Long Term Care Ombudsman	75,000	
Commission for Handicapped Children		
Pediatric Surgery	127,000	
Surgical Waiting List	308,000	
Social Services		
Preventive Assistance Fund	350,000	
Medicaid Services		
Home & Community Based Waiver	268,210	
Justice		
State Police		
Criminal History Information System	200,000	
15 Additional Troopers		648,400
Fingerprint Equipment (shift to Vehicles)		700,000

Vehicles (replace with Investment Income from Fingerprint)	1,100,000	100,000
Fingerprint Operations	200,000	50,100
State Police Vehicles	70,900	144,200
Justice Administration		
Grant Match	4,600	30,000
Medical Examiner Expansion	70,000	70,000
Natural Resources and Environmental Protection		
Dept. of Environmental Protection Toxic Air Containment Program	64,500	64,500
Dept. of Natural Resources Direct Aid to Conservation Districts	63,200	63,200
Nature Preserves Commission Nature Preserves Mgt. Program	28,000	29,000
Dept. of Natural Resources Soil Survey Mapping	101,600	107,100
Dept. of Environmental Protection Laboratory Expansion	256,700	353,100
Dept. of Natural Resources Forest Products Program	87,600	92,100
Dept. of Surface Mining Reclamation		
Coal Preparation Regulation	163,500	82,100
Public Protection and Regulation		
Office of the Secretary		
Operating Costs		1,300
Alcoholic Beverage Control		
Distribution & Control—Additional Staff	91,200	95,200
Law Books	15,000	
Department of Mines & Minerals		
Operating Costs	27,700	32,000
Vehicles	87,900	104,900
Department of Public Advocacy		
Defense Services—Grants	50,000	100,000
Defense Services Word Processors	70,000	70,000
Public Service Commission		
Operating Costs		24,000
Revenue		
Department of Professional & Support		58,100

Department of Processing & Enforcement	128,700	135,200
Tourism		
Fair Board		
North American Livestock (Premiums)	29,100	14,900
Parks—Reduction of 5 Rangers for Recreation Parks	103,500	105,000
Parks—Reduction of 3 Rangers for Resort Parks	62,100	64,900
Parks—Taylorsville Lake Debt Service	15,000	
Travel Development		
Local Matching Funds for Advertising Increase	50,000	50,000
Travel Development		
Mail Section Increase	20,000	20,000
Travel Development		
Tourism Advertising Increase	50,000	50,000
Horse Park—Maintenance	10,000	10,000
Fair Board		
Reduction in Major Maintenance	115,000	135,000
Parks		
Reduction in Major Maintenance	325,000	385,000
Parks		
Maintenance Projects	80,000	40,000
State Fair Board		
Maintenance Projects	32,000	18,000
Transportation		
Air Regulatory		
Computer Weather Data Service	50,000	50,000
Public Transportation		
Operating Assistance for the Augusta Ferry	10,000	5,000
General Administration and Support		
Transportation Planning	8,100	15,000

JUDICIAL BRANCH BUDGET UNITS	FY 1987	FY 1988
Court Operations and Administration		
Data Processing	293,400	314,600
District Judges Pay Equalization	107,000	217,700
Law Clerks	268,500	274,000
Juvenile Code	353,100	299,500
Court of Appeals—Settlement Conferences	50,300	52,900
Court of Appeals—Special Panels	191,800	194,300
Salary Equalization Plan for Non-Elected Employees	420,700	459,600
Operations	48,900	84,700
Local Facilities Fund	46,000	82,400
Judicial Retirement Plan	20,300	20,300
LEGISLATIVE BRANCH BUDGET UNITS	FY 1987	FY 1988
Legislative Reseach Commission	400,000	400,000

ROAD FUND

Pursuant to KRS 48.130, there is hereby established a Road Fund Budget Reduction Plan for fiscal year 1986-87 and fiscal year 1987-88.

In the event of an actual or estimated deficit in Road Fund receipts of $506,420,000 in fiscal year 1986-87 and $516,230,000 in fiscal year 1987-88, the Governor shall implement sufficient reductions in the allotments to the itemized budget units listed below. Such reductions shall be in allotments for the stated programs and shall not exceed the amounts listed for each respective program for each respective year.

	Maximum Amount of Reduction	
Transportation	FY 1987	FY 1988
General Administration and Support		
Personnel Computer (40 to 20)	192,400	
Micro-computers (50 to 25)	86,800	
Laboratory and Office Equipment	200,000	180,000
Seven Salt Domes ($90,000 each)	630,000	
Pike County Materials Lab	200,000	
Owsley County Maintenance Barn	350,000	
Renovation of Central Office Materials Lab	200,000	
Boyd County Weigh Station		1,500,000
Additional Enforcement Officers (Lyon County Weigh Station)		174,500

New Weigh Station (I-24)	1,500,000	
Nine (9) Enforcement Vehicles		112,500
Twenty-four (24) Enforcement Vehicles	288,000	
Highways		
Shrine Markers	30,000	
Additional Billboard Personnel	75,000	95,000
Additional Vehicles Enforcement Officers	768,500	800,000
Additional Right-of-Way Personnel	119,700	130,700
Additional Traffic Technicians	54,600	65,900
Additional Rest Area Maintenance Personnel	500,000	500,000
Upgrade (Vehicle Enforcement) Pay	200,000	210,000
Equipment Purchases	2,610,200	3,550,000
Noxious Weed Control Maintenance	200,000	381,800
Snow and Ice Reserve Fund		1,263,800
State Construction	1,113,800	1,057,400
State Resurfacing	3,341,500	2,884,200
Total	12,660,500	12,905,800

Calendar

HB 280, HB 718, HB 794, HB 808, HR 60, HB 547, HB 421, HB 748, HB 343, HB 583, HB 765, HB 693, SB 35, SJR 26, HB 269, HB 617, HB 630, HB 657, HB 670, HB 716, HB 742, HB 777, and SB 233 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 494, with Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Floor Amendment No. 1 to HB 494. Agreed.

Representative Overstreet moved the adoption of the Floor Amendment No. 2 to HB 494. Agreed.

Representative Freibert moved that HB 494, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 6, 1986, roll call on HB 494—Appendix A.)

HB 494, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which HB 494, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 490, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of the Committee Substitute to HB 490. Agreed.

Representative Farrow moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to HB 490.

Representative T. Jones inquired if Floor Amendment No. 2 to the Committee Substitute to HB 490 was germane to the bill.

The Speaker ruled Floor Amendment No. 2 to the Committee Substitute to HB 490 was germane to the bill.

On the roll call the vote was yeas 19—Arnold, Barrows, Bendl, M. Brown, Donnermeyer, Farrow, Guenthner, Hancock, K. Harper, Lear, LeMaster, Mack, Mann, Meyer, Moberly, Pearman, Richards, Todd, Yates. Nays 64—Allen, Bennett, Blevins, Brinkley, F. Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Ford, Freibert, Gedling, Gray, J. Harper, Head, Holbrook, Holloway, Jensen, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, Little, Long, Lyne, Maggard, McElroy, McNutt, Napier, Nett, Noe, Noland, Overstreet, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, Riner, Rose, Scorsone, Seum, Siler, Stewart, Stone, Strong, Stumbo, Thomas, Turner, Williams, Worthington.

Floor Amendment No. 2 to the Committee Substitute to HB 490 was rejected.

Representative Gregory moved that HB 490, by way of Committee Substitute, be passed.

Representative Reinhardt moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to HB 490. Agreed.

On the roll call the vote was: Yeas 79, Nays 13. (See March 6, 1986, roll call on HB 490—Appendix A.)

HB 490, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which HB 490, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 158 had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 2:33 p.m.)

Orders of the Day (continued)

HB 692, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to HB 692. Agreed.

Representative Bruce moved that HB 692, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 6, 1986, roll call on HB 692—Appendix A.)

HB 692, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which HB 692, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 215, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that HB 215 be passed.

On the roll call the vote was: Yeas 99, Nays 0.

HB 215 was passed and the title agreed to.

HB 534 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that HB 534 be passed.

On the roll call the vote was: Yeas 97, Nays 0.

HB 534 was passed and the title agreed to.

Representative Cyrus moved that the vote by which HB 534 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 574 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that HB 574 be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See March 6, 1986, roll call on HB 574—Appendix A.)

HB 574 was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 574 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 613, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ellington moved the adoption of the Committee Amendment No. 1 to HB 613.

On the roll all the vote was yeas 47—Allen, Arnold, Blevins, Brinkley, M. Brown, Burnette, Caldwell, Clapp, P. Clark, Cline, Curd, Cyrus, Ellington, Farrow, Ford, Gray, Gregory, Hancock, J. Harper, K. Harper, Head, Holbrook, Jensen, Johnson, Kerr, Lefevers, Lile, Lyne, Mann, McElroy, McNutt, Napier, Nett, Noland, Pearman, Pritchett, Rattliff, Reinhardt, Richards, Riner, Scorsone, Smith, Stone, Thomas, Todd, Turner, Williams. Nays 16—Barrows, Bronger, L. Clark, Deskins, Guenthner, R. Jones, T. Jones, Lear, Long, McBee, Moberly, Preston, Siler, Strong, White, Yates.

The Committee Amendment No. 1 to HB 613 was adopted.

Representative Ellington moved that HB 613, as amended, be passed.

On the roll call the vote was: Yeas 46, Nays 30. (See March 6, 1986, roll call on HB 613—Appendix A.)

HB 613, as amended, was passed and the title agreed to.

Representative Ellington moved that the vote by which HB 613, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tempore Worthington presiding.

HB 726, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Amendment No. 1 to HB 726. Agreed.

Representative Kerr moved that HB 726, as amended, be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See March 6, 1986, roll call on HB 726—Appendix A.)

HB 726, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 726, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 54 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 54 be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See March 6, 1986, roll call on SB 54—Appendix A.)

SB 54 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 54 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 55 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 55 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 6, 1986, roll call on SB 55—Appendix A.)

SB 55 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 55 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 56 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 56 be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 6, 1986, roll call on SB 56—Appendix A.)

SB 56 was passed and the title agreed to.

SB 58 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 58 be passed.

On the roll call the vote was: Yeas 92, Nays 5. (See March 6, 1986, roll call on SB 58—Appendix A.)

SB 58 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 58 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 59 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 59 be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 6, 1986, roll call on SB 59—Appendix A.)

SB 59 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 59 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 105 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 105 be passed.

On the roll call the vote was: Yeas 83, Nays 15. (See March 6, 1986, roll call on SB 105—Appendix A.)

SB 105 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 105 was passed be reconsidered and said motion be placed on the table. Agreed.

SB 106 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that SB 106 be passed.

On the roll the vote as was: Yeas 94, Nays 2. (See March 6, 1986, roll call on SB 106—Appendix A.)

SB 106 was passed and the title agreed to.

Representative Stumbo moved that the vote by which SB 106 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 294 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that HB 294 be passed.

On the roll call the vote was: Yeas 93, Nays 4. (See March 6, 1986, roll call on HB 294—Appendix A.)

HB 294 was passed and the title agreed to.

Representative Long moved that the vote by which HB 294 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 589 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 589 be passed.

Representative Scorsone moved that HB 589 be laid on the Clerk's desk.

On the roll call the vote was yeas 15—Bendl, Clarke, Cowan, Deskins, Gray, Hines, R. Jones, T. Jones, Keith, McBee, Moberly, Noe, Overstreet, Pritchett, Scorsone. Nays 72—Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, M. Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Freibert, Gedling, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Head, Heleringer, Jensen, Johnson, Kerr, Layman, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mann, McElroy, McNutt, Meyer, Morris, Napier, Nett, Noland, O'Brien, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Rose, Siler, Smith, Stewart, Stumbo, Todd, Turner, White, Williams, Worthington, Yates.

The motion that **HB 589** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 83, Nays 10. (See March 6, 1986, roll call on HB 589—Appendix A.)

HB 589 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 589** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 61, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 3 to **HB 61** is as follows:

Amend printed copy of **HB 61** as follows:

On page 19, line 6, after "semi-annually" by inserting "*by opposed candidates and annually by unopposed candidates*";

And on line 8, after "31" by inserting "*for opposed candidates and December 31 for unopposed candidates,*"

Representative Brinkley moved that the House concur in the Senate Amendment No. 3 to **HB 61**. Agreed.

Representative Brinkley moved that **HB 61**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 72, Nays 19. (See March 6, 1986, roll call on **HB 61**—Appendix A.)

HB 61, as amended by the Senate, was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 61**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 218, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 218** is as follows:

Amend printed copy of **HB 218** as follows:

On line 4, after the word "transferred" and before the word "the" by inserting "the data processing services of"

Representative Rose moved that the House concur in the Senate Amendment No. 1 to **HB 218**. Agreed.

Representative Rose moved that **HB 218**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 6, 1986, roll call on **HB 218**—Appendix A.)

HB 218, as amended by the Senate, was passed and the title agreed to.

Representative Rose moved that the vote by which **HB 218**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 246, with Senate Committee Substitute and Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 246** is as follows:

HB 246, AN ACT relating to mortgages on real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals and extensions of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured thereby. *Except as provided in subsection (3) of this section,* the mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien, provided, however, any mortgagee upon *receipt of a written* request of a mortgagor must release *of record the* [~~that amount of a~~] lien to secure additional indebtedness *to the extent described in such request* [~~as exceeds the balance of such additional indebtedness at the time of such request~~].

(3) (a) The written request referred to in subsection (2) of this section shall be signed by the mortgagor or his agent or attorney, and shall set forth a description of the real property to which the request relates, the date, parties to, the volume and initial page of the record of the mortgage referred to in subsection (1) of this section, and a description of the nature, amount and holder of the lien or encumbrance which the mortgagor intends to place upon such real property. Such request shall be deemed to have been received by the holder of the mortgage referred to in subsection (1) of this section only when delivered to such holder by certified mail, return receipt requested, at the address of the holder appearing of record on such mortgage or an assignment thereof.

(b) If within ten (10) business days after receipt of the written request referred to in this subsection, the holder of the mortgage referred to in subsection (1) of this section fails to release that amount of the lien to secure additional indebtedness to the extent described in such request, the mortgagor may record in the office of the county clerk in which the mortgage referred to in subsection (1) of this section is recorded a copy of such written request upon payment of the same filing fee as provided for a release of a mortgage.

(c) If, after a copy of such written request is recorded, an advance is made by the holder of the mortgage referred to in subsection (1) of this section, then the lien of such mortgage for the unpaid balance of the advance so made shall be subordinate to the lien or encumbrance described in such request; provided, that any advance made pursuant to a line of credit shall not be subordinate to the lien or encumbrance described in such request unless such request specifically, and not by implication, describes such line of credit by account or other identifying number and states that any advance thereafter made pursuant to such plan is intended to be subordinated as aforesaid.

The Senate Amendment No. 1 to **HB 246** is as follows:

Amend printed copy of **HB 246** on page 2, lines 1 and 2, by deleting "*to the extent described in such request*"; and

On page 2, lines 2, 3, and 4, by removing the brackets and strikethrough around "as exceeds the balance of such additional indebtedness at the time of such request".

Representative Holbrook moved that the House concur in the Senate Committee Substitute to **HB** 246. Agreed.

Representative Holbrook moved that the House concur in the Senate Amendment No. 1 to HB 246. Agreed.

Representative Holbrook moved that HB 246, by way of Senate Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See March 6, 1986, roll call on HB 246—Appendix A.)

HB 246, by way of Senate Committee Substitute as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which HB 246, by way of Senate Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that HB 315 be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 315 is as follows:

Amend printed copy of HB 315 on page 2, line 4, after the word "shall" by inserting an opening bracket in front of the word "be" and by inserting a closing bracket after the word "with" and striking through the same.

on page 2, line 4, after the word "shall" by inserting the word "contain".

on page 2, line 19, after the "." by deleting the opening bracket and on line 20, after the "[-]" by deleting the closing bracket and deleting the strikethroughs from the same.

on page 3, line 6, after the word "*and*" by inserting the following: "*if reflectorized plates are issued*"

Representative McElroy moved that the House concur in the Senate Amendment No. 1 to HB 315. Agreed.

Representative McElroy moved that HB 315, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 82, Nays 7. (See March 6, 1986, roll call on HB 315—Appendix A.)

HB 315, as amended by the Senate, was passed and the title agreed to.

Representative McElroy moved that the vote by which HB 315, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 417 is as follows:

Amend printed copy of HB 417 on page 2, after line 6 by adding:

"*(3) In the case of a personal checking account that is closed and a new account opened simultaneously upon the advice of the bank, the checks in the new account shall have the numerical month and year in which the closed account was opened legibly printed on the faces of the checks. If the closed account was opened prior to the effective date of this Act, no date shall be required to be imprinted on the checks.*"

Representative Smith moved that the House concur in the Senate Amendment No. 1 to HB 417. Agreed.

Representative Smith moved that HB 417, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See March 6, 1986, roll call on HB 417—Appendix A.)

HB 417, as amended by the Senate, was passed and the title agreed to.

Representative Smith moved that the vote by which HB 417, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 586, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 586 is as follows:

Amend printed copy of HB 586 on page 1, line 10, after the word "*with*" by inserting the following: "*, or provide grants to*".

Representative Gedling moved that the House concur in the Senate Amendment No. 1 to HB 586. Agreed.

Representative Gedling moved that HB 586, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 6, 1986, roll call on HB 586—Appendix A.)

HB 586, as amended by the Senate, was passed and the title agreed to.

Representative Gedling moved that the vote by which HB 586, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

Motions, Petitions and Communications

Representative Todd moved the adoption of the following Legislative Citation No. 42:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, JUDGE EARLE E. HUDDLESTON, on your retirement, February 28, 1986, from the Cabinet for Natural Resources. It is most noteworthy that you have followed in the footsteps of your father, Judge D. C. Huddleston and your grandfather, Judge Killis Huddleston in that you were elected County Judge of Clinton County in 1961, as well as serving in public office as Sheriff in 1957. You are to be commended for being instrumental in industrial development and instituting social programs in your area; and for serving as President of the Kentucky Welfare Association. You have complied an enviable record of accomplishments and achievements during your long tenure; and will be remembered for your diplomatic and fair manner in striving to insure protection of the natural environment while promoting the development of our Commonwealth's vast resource potential. You are loved and respected by your family, friends and fellow citizens. This prestigious body applauds and salutes you for your tireless efforts and commitment to good government, and for improving the quality of life for all people. (Sponsored by Representative Todd)

Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 46:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes, JOHN GILLIAM, for being named 1985 Special Education Teacher of the Year, by the Northern Kentucky Association for the Retarded. Your contributions in the field of Special Education have broadened the horizons of your students at Cline Middle School, in Campbell County, and we, the State of Kentucky are the benefactors of this great distinction. Your tireless efforts and devotion to teaching and training "Special" children is exemplified by twenty-five years in the teaching profession. You are recognized by fellow-teachers as "one who goes the extra mile for your students" and having a compassionate and caring nature. Your understanding ways and dedication to education have earned you the love and respect of your students, their families and your community.

This prestigious body salutes and applauds you for the great pride and honor you have bestowed on your school, community and the Commonwealth of Kentucky; and we extend best wishes to you in your future endeavors. (Sponsored by Representative Reinhardt)

Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 726, by Representative Heleringer:

Amend printed copy of HB 726:

On page 2, line 6, after "thereby." insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Jury instructions in any criminal trial in which the defendant is accused of a felony shall include information pertaining to the portion of a sentence that must be served by a convicted felon prior to parole eligibility as is then set out in regulations promulgated by the parole board. Such instructions shall also indicate that a convicted felon receives credit for time served in the county jail prior to conviction towards any sentence imposed by the court."

Floor Amendment No. 1 to HB 534, by Representative Heleringer:

On page 4, line 5, after "kept." insert the following:

Amend printed copy of HB 534:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Jury instructions in any criminal trial in which the defendant is accused of a felony shall include information pertaining to the portion of a sentence that must be served by a convicted felon prior to parole eligibility as is then set out in regulations promulgated by the parole board. Such instructions shall also indicate that a convicted felon receives credit for time served in the county jail prior to conviction towards any sentence imposed by the court."

Floor Amendment No. 1 to HB 613, by Representative Heleringer;

Amend printed copy of HB 613:

On page 7, line 8, after "($2,000)." insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Jury instructions in any criminal trial in which the defendant is accused of a felony shall include information pertaining to the portion of a sentence that must be served by a convicted felon prior to parole eligibility as is then set out in regulations promulgated by the parole board. Such instructions shall also indicate that a convicted felon receives credit for time served in the county jail prior to conviction towards any sentence imposed by the court."

Floor Amendment No. 1 to HB 642, by Representative Heleringer:

Amend printed copy of HB 642:

On page 2, line 12, after the bracketed material, insert the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Jury instructions in any criminal trial in which the defendant is accused of a felony shall include information pertaining to the portion of a sentence that must be served by a convicted felon prior to parole eligibility as is then set out in regulations promulgated by the parole board. Such instructions shall also indicate that a convicted felon receives credit for time served in the county jail prior to conviction towards any sentence imposed by the court."

Floor Title Amendment and Floor Amendment No. 1 to HB 537, by Representative Meyer:

Amend printed copy of HB 537:

Amend the Title to read as follows: "AN ACT relating to jails."

Amend printed copy of HB 537:

On page 2, line 6, beginning with, "Section 2." and continuing through to line 11 ending with "." by deleting this section in its entirety.

Floor Amendment No. 2 to HB 565, by Representative Little:

Amend printed copy of HB 565:

on page 2, after line 13, add the following:

SECTION 2. A NEW SECTION OF KRS 350.060 TO 350.062 IS CREATED TO READ AS FOLLOWS:

All applications for permits shall be reviewed and approved or disapproved in the regional offices of the cabinet.

Floor Amendment No. 3 to the Committee Substitute to HB 134, by Representative Barrows:

Amend printed copy of Committee Substitute for HB 134:

On page 1 by deleting lines 3-20, and

On page 2 by deleting lines 1-17, and on line 18 at the beginning of the line by deleting "*penalties* ["

And by removing the strikethroughs from "~~Lotteries~~"

And after "~~Lotteries~~" by inserting ",["

And after "~~and~~" by inserting "]".

And after "~~and~~" by removing the strikethroughs from "~~gift enterprises~~"

And after "~~enterprises~~" by inserting "*and sweepstakes, except a lottery, gift enterprises or sweepstakes which the General Assembly may authorize an agency of the state to conduct, the entire net proceeds of which shall be expended as the General Assembly may prescribe,*"

And by removing the strikethroughs from "~~are forbidden,~~"

And on lines 19-22 by removing all strikethroughs

And at the end of line 22 by inserting "*or sweepstakes*"

And at the beginning of line 23 by removing the strikethroughs from "~~privileges or charters theretofore granted~~"

And after "~~granted~~" by inserting "*, other than as set out in this section,*"

And by removing the strikethroughs from "~~are revoked~~"

And after "~~revoked~~" by removing the closing bracket.

Floor Amendment No. 1 to HB 743, by Representative Donnermeyer:

Amend printed copy of HB 743:

On page 1, line 8, by inserting after the word "*department*", "*or local hazardous materials emergency response team*"; and

On page 1, line 15, by inserting after the word "*department*", "*or team*"; and

On page 2, line 16, by inserting after the word "*command*", "*or local official responsible for hazardous materials incidents pursuant to local ordinance,*". and

On page 2, line 20, by inserting after the number "*95*", "*or local official responsible for hazardous materials incidents pursuant to local ordinance*"; and

On page 3, line 2, after the word "*marshal*", by deleting the word "*or*"; and

On page 3, line 3, by inserting after the word "*officer*", "*, or local official responsible for hazardous materials incidents pursuant to local ordinance*".

Floor Amendment No. 3 to HB 152, by Representative Jones:

Amend printed copy of HB 152:

On page 3, on lines 25 through 26,

By deleting after the word “located” the following:

“*if required by the cabinet by regulation*”

Floor Amendment No. 4 to HB 152, by Representative Jones:

Amend printed copy of HB 152 on pages 11 through 12, by deleting Section 9 in its entirety, and

By inserting a new Section 9 of read as follows:

“SECTION 9. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

”*The board of health may fix the compensation of the executive officer of the department at a reasonable amount commensurate with the additional responsibilities of that office.*“

Floor Amendment No. 5 to HB 152, by Representative Jones:

Amend printed copy of HB 152 on pages 15 through 23,

On pages 15 through 23,

By deleting Sections 12 through 15 in their entirety.

On pages 24, on lines 10 through 19,

By deleting Section 17 in its entirety and by renumbering Sections 16, 18, and 19 to conform.

Floor Amendment No. 6 to HB 152, by Representative Jones:

Amend printed copy of HB 152:

On page 10,

On lines 19 through 20,

By deleting after the word ”*officer*“ the following:

”, *subject to the approval of the cabinet for human resources*“

On lines 22,

By deleting after the word ”*the*“ the following:

”*cabinet for human resources and the*“

On page 11,

On lines 2 through 3,

By deleting after the word ”*otherwise*“ the following:

”, *subject to the approval of the state cabinet for human resources*“

On page 13, on lines 10 through 11,

By deleting after the word "officer" the following:

"*shall be the executive officer of the department and shall*"

Floor Amendment No. 3 to HB 709, by Representative P. Richardson:

Amend printed copy of HB 709:

On page 8, after line 26 by adding:

"*(c) In no event shall a bank's total investment in other real estate under this subsection exceed thirty percent (30%) actual paid-in capital and surplus for each real estate investment.*"

On page 9, line 11 after "*used.*" by adding:

"*Before making an investment pursuant to subsections (10), (11) or (12) of this section, the bank shall present the proposed investment to the commissioner for his approval. If the commissioner determines the investment will not jeopardize the financial stability of the bank, the investment shall be approved and may be made.*"

Floor Title Amendment to SB 86, by Representative Bruce:

Amend printed copy of SB 86:

by amending the title to read as follows:

"AN ACT relating to insurance."

Floor Amendment No. 2 to SB 86, by Representative Bruce:

Amend printed copy of SB 86:

On page 6, after line 16, by adding the following:

"SECTION 2. A NEW SECTION OF SUBTITLE 16 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in KRS 304.16-030, the term "employe" may include lawful agents of the employer."

Floor Amendment No. 1 to HB 716, by Representative Meyer:

Amend printed copy of HB 716:

On page 1, line 3, by inserting at the beginning of the line the following: "*(1)*"; and on page 1, line 17, by adding after line 17 the following "*(2) There is hereby granted to any city, county, public body corporate or politic or special district or subdistrict, the power of eminent domain with respect to sewage treatment plants, facilities and installations owned by sewage treatment utilities. Such power of eminent domain shall be exercisable in the manner prescribed by the eminent domain act of Kentucky.*".

Floor Title Amendment to SB 182, by Representative Dawahare:

Amend printed copy of GA Copy of SB 182:

By amending the title to read as follows:

"AN ACT relating to employes of the Commonwealth, making an appropriation therefor and declaring an emergency."

Floor Amendment No. 1 to SB 182, by Representative Dawahare:

Amend printed copy of GA Copy of SB 182:

On page 2, after line 13, insert the following:

"Section 5. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years—90% of benefits~~

~~28 years—80% of benefits~~

~~27 years—70% of benefits.~~]

[~~(c)~~]

Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under *paragraph* (a) *of this subsection* who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 6. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 7. KRS 161.540 is amended to read as follows:

(1) Effective *July 1, 1986* [~~July 1, 1984~~], each member shall contribute to the retirement system *nine and eight hundred and fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred and seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a

member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 8. Whereas contributions to the retirement system must be made at the beginning of the fiscal year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Floor Amendment No. 1 to the Committee Substitute to HB 510, by Representative Mann:

Amend printed copy of CS/HB 510:

On page 1, line 8, after the word "*state*" by adding the words "*before July 1, 1986*"; and

On page 1, line 12, after the word "*effect,*" by adding the following:

"*one-half of any oil overcharge refunds which become available to the state after July 1, 1986,*"; and

On page 1, line 18, delete the word "*principle*" and insert in lieu thereof "*principal*", and;

On page 4, after line 13, by inserting new sections as follows:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

(1) One-half of all oil overcharge refunds made available to the state after July 1, 1986, shall be credited to an energy conservation fund which is hereby created. Funds deposited to the credit of the energy conservation fund and any investment interest earned on the excess cash in the fund shall be used in one (1) or more of the three (3) conservation programs administered by the energy cabinet: the state energy conservation plan program, the energy extension service program, and the institutional building grants program. All monies in excess of the amount required to meet current expenses shall be invested in interest-bearing accounts and accrue to this fund.

(2) The secretary of the energy cabinet shall submit to the legislative research commission a report by July 30 of each year on the operational and financial status of the energy conservation fund.

Section 10. (1) In order to insure funding for weatherization activities under the low-income energy assistance trust fund for fiscal year 1987, the cabinet for human resources is directed to prepare a plan for fiscal year 1987 and submit that plan according to the provisions of this Act. There shall be made available to the cabinet for human resources an amount not more than one million six hundred thousand dollars ($1,600,000) on July 1, 1986 for funding of an approved plan. In order to provide such funding level, a portion of the principal in the trust fund may be released for initial funding.

(2) There shall be released for fiscal year 1987 from the principal in the low-income energy assistance trust fund one million three hundred thousand dollars ($1,300,000) to the energy cabinet for use in one (1) or more

of the following programs: the state energy conservation plan program, the energy extension service, and the institutional building grants program."

And on page 4, line 14, by deleting the number "9" and inserting in lieu thereof "11."

Floor Title Amendment to the Committee Substitute to HB 510, by Representative Mann:

Amend printed copy of Committee Substitute to HB 510:

Title line by amending the title to read as follows:

"AN ACT relating to energy assistance and conservation and declaring an emergency."

Floor Amendment No. 2 to the Committee Substitute to HB 510, by Representative Mann:

Amend printed copy of CS/HB 510:

On page 1, line 8, after the word "*state*" by adding the words "*before July 1, 1986*"; and

On page 1, line 12, after the word "*effect,*" by adding the following:

"*one-half of any oil overcharge refunds which become available to the state after July 1, 1986,*"; and

On page 1, line 18, delete the word "*principle*" and insert in lieu thereof "*principal*", and;

On page 4, after line 13, by inserting new sections as follows:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 152A IS CREATED TO READ AS FOLLOWS:

(1) One-half of all oil overcharge refunds made available to the state after July 1, 1986, shall be credited to an energy conservation fund which is hereby created. Funds deposited to the credit of the energy conservation fund and any investment interest earned on the excess cash in the fund shall be used in one (1) or more of the three (3) conservation programs administered by the energy cabinet: the state energy conservation plan program, the energy extension service program, and the institutional building grants program. All monies in excess of the amount required to meet current expenses shall be invested in interest-bearing accounts and accrue to this fund.

(2) The secretary of the energy cabinet shall submit to the legislative research commission a report by July 30 of each year on the operational and financial status of the energy conservation fund."

Section 10. (1) In order to insure funding for weatherization activities under the low-income energy assistance trust fund for fiscal year 1987, the cabinet for human resources is directed to prepare a plan for fiscal year 1987 and submit that plan according to the provisions of this Act. There shall be made available to the cabinet for human resources an amount not more than one million six hundred thousand dollars ($1,600,000) on July 1, 1986 for funding of an approved plan. In order to provide such funding level, a portion of the principal in the trust fund may be released for initial funding.

(2) There shall be released for fiscal year 1987 from the principal in the low-income energy assistance trust fund one million three hundred thousand dollars ($1,300,000) to the energy cabinet for use in one (1) or more of the following programs: the state energy conservation plan program, the energy extension service, and the institutional building grants program."

And on page 4, line 14, by deleting the number "9" and inserting in lieu thereof "11."

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 964, by Representative Donnermeyer: AN ACT relating to state property.

HB 965, by Representative Clapp: AN ACT relating to the Churchill Downs Authority.

HB 966, by Representatives Reinhardt and B. Richardson: AN ACT relating to insurance.

HB 967, by Representatives Hancock, Farrow, Crupper, Long, Barrows and T. Jones: AN ACT relating to state personnel.

HB 968, by Representatives Mann, Meyer and Donnermeyer: AN ACT relating to sanitation districts.

HB 969, by Representative Reinhardt: AN ACT relating to alcoholic beverages.

HB 970, by Representative Brinkley: AN ACT relating to administrative regulations.

HB 971, by Representative Napier: AN ACT relating to age discrimination.

HB 972, by Representatives Napier, Stone and Ford: AN ACT relating to the maximum debt of persons to a bank or trust company.

HB 973, by Representative Riner: AN ACT relating to the Legislative Research Commission.

HB 974, by Representative Riner: AN ACT relating to group term life insurance.

HB 975, by Representative Bronger: AN ACT changing the classification of the City of Shively, in Jefferson County.

HB 976, by Representatives Napier and Worthington: AN ACT relating to blasting near natural gas pipelines.

HB 977, by Representative Mann: AN ACT relating to electric and gas utility service and low-income energy assistance.

HB 978, by Representative Little: AN ACT relating to coal haul roads.

HB 979, by Representative Lear: AN ACT relating to the recall of school tax levies.

HB 980, by Representatives Blandford, Worthington, Rapier, Hancock, Stumbo, M. Brown, Clapp, Clarke, B. Richardson, LeMaster, Long, Barrows, Gregory, Blevins, Thomas, McElroy and Holbrook: AN ACT relating to revenue and taxation and declaring an emergency.

HB 981, by Representative Ford: AN ACT relating to public school district finances.

HB 982, by Representatives Turner and Bendl: AN ACT relating to medical assistance.

HB 983, by Representative Reinhardt: AN ACT relating to loans and scholarships for prospective teachers.

HB 984, by Representative Reinhardt: AN ACT relating to adoptions.

HB 985, by Representatives Deskins, Stone, Brinkley, McElroy, Lefevers, Noland, Noe, Burnette, Allen, Little, Rose, Strong and Siler: AN ACT relating to coal.

HB 986, by Representative Kerr: AN ACT relating to crimes and punishments.

HB 987, by Representative Gray: AN ACT relating to marriage.

HB 988, by Representative Stumbo: AN ACT relating to plastic containers.

HR 140, by Representatives Bennett, Holloway and Cyrus: A RESOLUTION requesting the governor to develop effective state programs and mechanisms to deal with the problems of business failure, plant closure, reemployment and retaining of dislocated workers in order to alleviate the negative impact of such on the Kentucky economy.

HCR 141, by Representative Stumbo: A CONCURRENT RESOLUTION urging the Congress of the United States to continue funding of the Community Services Block Grant, the Head Start Program, the Weatherization Assistance Program, and the Low-Income Home Energy Assistance Program.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: SCR 59, HB 857, HB 191, HB 902.

State Government: HB 882.

Education: HB 872, HB 896, HCR 114.

Counties and Special Districts: HB 859, HB 879.

Business Organizations and Professions: HB 790, HB 837.

Health and Welfare: SB 210.

Judiciary-Civil: SB 127, SB 128, SB 243, HB 775, HB 776, HB 800, HB 862, HB 854, HB 817, HB 827, HB 829.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Education: HB 491.

Report of Committees

The Committee on Health and Welfare reported HB 53 with Committee Amendments attached thereto, HB 57, HB 447 with Committee Amendment attached thereto, HB 661 with Committee Substitute and Committee Amendment attached thereto, HB 697 with Committee Amendments attached thereto, and HB 747 with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 53, AN ACT relating to persons with developmental disabilities and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 347 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) A complete, effective system of services and care provided to persons with developmental disabilities must be coordinated, consistent, monitored and designed to meet the needs of those persons as well as to protect their legal and human rights;

(2) The current system of services and care for persons with developmental disabilities needs substantial improvement in order to provide an array of services which allows active treatment and habilitation; and

(3) It is necessary to require:

(a) The identification and evaluation of, and the development and provision of services and active treatment for, persons with developmental disabilities;

(b) Interagency development, coordinated planning and implementation of active treatment and service programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights;

(c) Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and

(d) Establishment of an array of comprehensive services and residential alternatives in the public and private sectors to allow persons with developmental disabilities the opportunity to live in the least restrictive, individually appropriate environment;

(4) The provisions of this Act shall be construed to protect and promote the continuing development and maintenance of physical, mental and social skills of persons with developmental disabilities;

(5) This Act shall not alter requirements and responsibilities mandated under any state or federal act, relieve any organizational unit or administrative body of its duties under said acts or transfer among state organizations or administrative bodies any responsibilities, powers or duties mandated by said acts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services;

(2) "Case management services" means all such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, legal, educational and other services, and such term includes:

(a) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability and the person's parent, if the person is a minor, or guardian, if the person has been adjudicated legally disabled, that the changing needs of the person and the family are recognized and appropriately met; and

(b) Coordinated services which provide to persons with developmental disabilities support, access to, and coordination of other services, information on programs and services and monitoring of the person's progress;

(3) "Habilitation" means the process described in the individualized service plan by which a person is assisted to acquire and maintain physical, mental and social skills which will enable him to live most efficiently and effectively in the least restrictive individually appropriate environment;

(4) "Individualized service plan (ISP)" means a written plan of service based on an interdisciplinary approach which is revised as needed but no less than annually. The plan shall be developed by the interdisciplinary team and shall contain a statement of:

(a) The nature of the specific mental, physical, social and developmental needs of the person;

(b) The specific services to be provided under this Act, those services being provided under other state and federal laws and a schedule for the provision of said services;

(c) The least restrictive individually appropriate environment for the provision of services and active treatment;

(5) "Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan;

(6) "Interdisciplinary team (IDT)" means those persons who work most directly with the individual in each of the professions, disciplines and service areas that provide active treatment, services and evaluations for the person, including the persons set forth in Section 3(6) of this Act. Prior to relocation to a more individually appropriate placement in accordance with his individualized service plan, the IDT shall include staff representing the current placement and staff representing the proposed placement;

(7) "Least restrictive environment" means the individually appropriate residence and service delivery setting, including the entire array of residential alternatives as defined by this Act, in which the person can function

most effectively and independently, gaining to the maximum extent possible, control over his environment, and shall be based solely on his needs as identified in his individualized service plan. This definition shall not be construed to abolish any existing residential alternatives as defined by this Act;

(8) "Monitor" means to conduct a systematic, coordinated, objective qualitative review of services by a body independent of the agencies providing services under this Act. This body shall include persons with developmental disabilities, parents, guardians and professionals;

(9) "Person with a developmental disability" means a person with a long term disability which:

(a) Is attributable to a developmental or physical impairment or combination of developmental and physical impairments;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in at least three (3) of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency;

(d) Requires special, generic or interdisciplinary care and active treatment and services of extended duration;

(e) Is manifested before the person attains age twenty-two (22);

(10) "Representative" means any individual who can advise and advocate for a person with developmental disabilities and who may serve at the request of such person; provided, however, if the person with developmental disabilities is a minor or is legally disabled and has not requested a representative, the parent or guardian may request a representative to assist on behalf of a person with developmental disabilities;

(11) "Residence" or "residential alternative" means the living space occupied by the person with a developmental disability, including single-person homes, natural family homes, institutional facilities and all other types of living arrangements; and

(12) "Services" means such residential, developmental, vocational, support and related services, training and active treatment in the least restrictive, individually appropriate environment to provide for continuing development of independent or interdependent living skills of persons with developmental disabilities. These services include, but are not restricted to, diagnostic services; child development services; respite care; domestic assistance; consumer-directed attendant care; habilitation and rehabilitation; speech, physical and occupational therapy; recreational therapy and activities; training for parents, guardians and care providers as requested by said persons; transportation; equipment; development of language and communication skills; interpreters; family counseling and case management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) Rights enumerated in this Act including the right to accept or reject services, active treatment and residential alternatives, shall be exercised by:

(a) The person with a developmental disability;

(b) The person's parent if the person is a minor; or

(c) The person's guardian if the person has been adjudicated legally disabled in that specific decision-making area, except that decisions to change the degree of restrictiveness of a residential placement for such persons under guardianship or persons who are minors shall be made by the IDT with substantial weight being given to the desires of the person and his parent or guardian;

(2) Each person with a developmental disability shall have the opportunity to reside in the least restrictive, individually appropriate residential alternative located as close as possible to his home community;

(3) Each person with a developmental disability, to the extent it is individually appropriate, shall have the right to:

(a) Interact with nondisabled people in a nontreatment, nonservice oriented setting;

(b) Live with or in close proximity to nondisabled persons;

(c) Live in a setting which closely approximates those conditions available to nondisabled persons of the same age;

(4) Nothing in subsection (3) of this section shall be construed to abolish any existing residential alternatives as defined by this Act;

(5) The ISP shall contain, but not be limited to:

(a) Intermediate and long-range active treatment and service goals, including specific goals to facilitate the development and retention of daily living skills necessary for living in the least restrictive, individually appropriate residential alternative as defined by this Act, with a projected timetable for their attainment;

(b) The person's schedule of service activities, including the least restrictive, individually appropriate service settings to be utilized for the implementation of each goal and objective identified; and

(c) The specific services to be offered the person to attain these goals;

(6) The following persons shall have the right to participate in the development of the ISP:

(a) The person with a developmental disability;

(b) The person's representative;

(c) The person's guardian if the person has been adjudicated legally disabled; and

(d) The person's parent if the person is a minor or states no objection to the participation of his parent;

(7) Any person relocated from an institutional to a noninstitutional setting or from a noninstitutional to an institutional setting for whom it is subsequently determined and reflected in his ISP that the initial setting is the individually appropriate environment, shall have the following rights:

(a) To receive a maximum of thirty (30) days of individually appropriate respite care initiated within twenty-four (24) hours of the decision for the person to relocate to the initial setting;

(b) To be placed as soon as possible but no later than thirty (30) days in the initial residential alternative from which he was transferred or any other individually appropriate residential alternative;

(c) To not be placed in an intermediate care nursing facility, skilled nursing facility or mental health facility, unless recommended by the IDT; approved by the person, his parent, if the person is a minor, or guardian, if the person has been adjudicated legally disabled; and supported by documented medical need; and

(d) To be transferred no more than three (3) times within the thirty (30) days allowed for respite care, except in a crisis situation, as defined by the IDT;

(8) Each person with a developmental disability shall have a right to receive least restrictive individually appropriate services, including a daily program of activities outside the residence in accordance with his ISP;

(9) In a manner consistent with the rights of privacy of a person with a developmental disability such a person shall have a right to be referred for medical and dental care and shall have the right to reasonable access to review medical, service and treatment files, to be informed of diagnoses, and to receive a copy of his ISP;

(10) A person who requests services under this Act or who is identified as a person with a developmental disability, his parent, if the person is a minor, or guardian, if the person has been adjudicated legally disabled, shall be informed orally and in writing of the contents of this Act, including the rights guaranteed under this Act;

(11) Any person with a developmental disability injured by a violation of this Act shall have a cause of action

for injunctive relief to be brought in the circuit court in which the alleged violation occurred or in which a plaintiff resides; however, no cause of action shall accrue during the first two (2) years after the enactment of this Act. A prevailing plaintiff shall be awarded costs and reasonable attorneys' fees; and

(12) Rights enumerated in this Act shall not be construed to replace or limit any other rights, benefits, or privileges, including other statutory and regulatory due process rights and protections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the cabinet for human resources and the education and humanities cabinet and the superintendent of public instruction shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this Act in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the legislative research commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential alternatives and services and documentation of the success of these efforts;

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources, the education and humanities cabinet, and the department of education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this Act, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this Act; and

(g) A fair, timely and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives and the protection of the rights of persons with developmental disabilities under this Act.

(2) Implementation of this Act providing for the orderly development of services and coordination among organizational units, administrative bodies and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources, the education and humanities cabinet and the department of education may assess reasonable charges for services rendered under this Act, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this Act may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of Section 1 of this Act.

Section 7. (1) For the purpose of funding this Act, there is appropriated out of the general expenditure fund in the state treasury jointly to the cabinet for human resources, the education and humanities cabinet, and the department of education $1,500,000 for fiscal year 1986-87 and $3,500,000 for fiscal year 1987-88.

(2) Of the $1,500,000 appropriated for fiscal year 1986-87, $100,000 shall be used in the development of a state plan and regulations to implement the disbursement mechanisms for the balance of the funds and to monitor the program thus implemented.

(3) The remainder of $1,400,000 from fiscal year 1986-87 together with any surplus from the $100,000 used in development in fiscal year 1986-87 and all of the $3,500,000 appropriated for fiscal year 1987-88 shall be disbursed equitably among all geographic areas of the state in response to proposals from public and private entities for programs which shall supplement and not supplant existing services and which are designed to serve persons who have developmental disabilities and who receive no services or who are underserved.

(4) All funds appropriated under this Act shall be used to supplement and increase the level of funds which would otherwise be made available for persons with developmental disabilities and shall not supplant such funds.

The Committee Amendment No. 1 to HB 53 is as follows:

Amend printed copy of HB 53:

On page 11, on lines 3 through 10,

By deleting subsection (11) in its entirety and by renumbering subsection (12) to conform.

On page 15,

By inserting after line 17 a new subsection (5) to read as follows:

"(5) The responsibilities of the cabinet for human resources, the education and humanities cabinet and the department of education to carry out the provisions of this Act shall be limited to the amount of funding appropriated to carry out the provisions of this Act. When such funds are exhausted no action shall be taken to compel the provision of additional services."

The Committee Amendment No. 2 to HB 53 is as follows:

Amend printed copy of HB 53:

On page 5, line 12,

after "*residential*" by inserting the words "*or institutional*"

On page 6, line 11,

by deleting the word "*may*" and inserting in lieu thereof the word "*shall*" and after the word "*request*" by inserting the words "*and pleasure*"

On page 7, lines 21-26,

by deleting the words "*except that decisions to change the degree of restrictiveness of a residential placement for such persons under guardianship or persons who are minors shall be made by the IDT with substantial weight being given to the desires of the person and his parent or guardian*"

On page 8, line 17,

after the word "*residential*" by inserting the words "*or institutional*"

On page 12, line 21,

after the word "*residential*" by inserting the words "*and institutional*" and by deleting the words "*alternatives and*"

HB 57, AN ACT relating to the long-term care ombudsman program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Administrative action" means any action made by an owner, employe, or agent of a long-term care facility, or by a government agency, which affects the provision of service to long-term care residents;

(2) "Long-term care facility" means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, any category of institutions regulated by a state pursuant to the provisions of section 1616(e) of the Social Security Act (for purposes of section 307(a)(12)), and any other similar adult care home;

(3) "Long-term care ombudsman" means the long-term care ombudsman as provided for under Title III of the Older American's Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

There is hereby established as an independent office of the executive branch of state government the long-term care ombudsman program which shall be administratively housed in the department of public advocacy and have the following functions, powers and duties:

(a) To investigate and resolve complaints made by or on behalf of older or other persons, who are residents of long-term care facilities, about any administrative action which may adversely affect the health, safety, welfare, and rights of such residents;

(b) To set forth, in accordance with law, procedures for access by long-term care ombudsman program representatives to long-term care facilities and residents and to facility, resident and state records pertinent to complaint investigation and resolution;

(c) To maintain records indicating the final disposition by the program of any complaint received and by any state agency of any complaint referred by the long-term care ombudsman program;

(d) To provide for the training of volunteers and promote the development of citizen organizations to participate in the ombudsman program;

(e) To organize and hold conferences on problems affecting persons who are residents of long-term care facilities;

(f) To appear before any federal, state or local governmental agency or body and the legislative research commission, to represent and be heard on behalf of the interests of residents of long-term care facilities;

(g) To monitor the development and implementation of federal, state and local laws, regulations, and policies affecting long-term care facilities and residents;

(h) To collect and provide information as appropriate to public agencies regarding the problems of older and other persons residing in long-term care facilities;

(i) To establish a statewide uniform reporting system to collect and analyze data relating to complaints about and conditions in long-term care facilities for the purpose of identifying and resolving significant problems;

(j) To submit on a regular and at least annual basis such data as collected under this section to the secretary of the cabinet for human resources, division of licensing and regulation to any federal agency as required by federal law or regulation, and to the legislative research commission; and

(k) To consider the views of area agencies on aging, older individuals, and provider agencies in planning and operating the ombudsman program; and

(l) To carry out such other activities as required or authorized by federal or state law or regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

All departments, agencies, officers and employes of the Commonwealth and all health care facilities licensed by the Commonwealth and employes thereof shall fully cooperate with the state long-term care ombudsman program in carrying out the provisions of this Act. No public record or record of a health care facility licensed by the Commonwealth shall be withheld from the long-term care ombudsman.

SECTION 4. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the position of the state long-term care ombudsman. The long-term care ombudsman shall be the head of the state long-term care ombudsman program. The long-term care ombudsman, subject to approval by the long-term care ombudsman advisory council, shall be appointed by the governor.

(2) The term of office of the long-term care ombudsman shall be for four (4) years and until the long-term care ombudsman's successor is appointed. The long-term care ombudsman may be reappointed.

(3) The long-term care ombudsman shall, in order to qualify for appointment, have demonstrated:

(a) Experience and competency in:

1. Organizing and administering services;

2. Coordinating related services;

3. Supervising and training staff and volunteers;

4. Community organizing;

5. Effective written and oral communication;

6. Issue identification and analysis; and

7. Techniques of interviewing, negotiation and client representation;

(b) Knowledge and understanding of:

1. The needs and problems of the institutionalized elderly and their families;

2. The state and local long-term care system;

3. Social service and public benefit programs related to the institutionalized elderly; and

4. Medical and social processes of aging.

(4) Neither the long-term care ombudsman nor any member of the ombudsman's immediate family shall have or have had within the three (3) years prior to appointment any financial interest in nor employment by or in any long-term care facility as defined in Section 1 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the executive branch of state government a long-term care ombudsman advisory council. The advisory council shall consist of thirteen (13) members who shall be appointed by the governor and shall hold office for a term of four (4) years and until their successors are appointed and qualified, except that initial appointments for a term beginning on the effective date of this Act, shall be as follows: three (3) members shall be appointed for one (1) year, three (3) for two (2) years, four (4) for three (3) years, and three (3) for four (4) years. The respective terms of the first members shall be designated by the governor at the time of their appointments. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until the member's successor is appointed and qualified; provided that the term of office for the member representing the Kentucky house of representatives shall only be for two (2) years.

(2) Ten (10) of the initial appointments and appointments thereafter shall be made one (1) from each list of three (3) nominees submitted by the following organizations: Kentucky nurses association, quality care advocates, Kentucky association for retarded citizens, Kentucky association for mental health, Kentucky bar association, Kentucky medical association, institute on aging Kentuckians together, the christian appalachian project, and Kentucky chapter of the national association of social workers. Of the other three (3) members, two (2) shall be a long-term care facility resident or family member of a resident, and one (1) shall be a state legislator.

(3) No nominee or member or family member of the council shall be a stockholder or have any financial interest in or be an employe of any long-term care facility within the past three (3) years.

(4) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out the member's duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(5) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(6) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be necessary.

(7) Staff to the council shall be provided by the state government agency with which the state long-term care ombudsman program is administratively lodged.

SECTION 6. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The long-term care ombudsman advisory council shall provide ongoing support and leadership to the long-term care ombudsman program and shall:

(1) Review and comment upon activities of the long-term care ombudsman program as provided in Section 2 of this Act;

(2) Monitor and recommend policies, laws and regulations necessary to improve the long-term care system;

(3) Advise and provide technical assistance to the long-term care ombudsman program on all matters affecting the long-term care resident and system;

(4) Advocate on behalf of the long-term care residents by identifying needs or problem areas; and

(5) Report annually to the general assembly on the activities and progress of the long-term care ombudsman program.

SECTION 7. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The public advocate shall not interfere with the long-term care ombudsman program's vigorous and impartial investigation and resolution of complaints involving residents of long-term care facilities.

(2) The office of the long-term care ombudsman program shall have:

(a) Independence and impartiality;

(b) Visibility to the public;

(c) The ability to communicate and work with other agencies of government;

(d) An opportunity to influence legislation and regulations;

(e) Continuity;

(f) Input to programs which affect older persons;

(g) Ease of accessibility to the expertise in the field of aging of other agencies of state government; and

(h) Accessibility to the media and ability to initiate lawsuits.

(3) Staff to the long-term care ombudsman program shall be provided by the department of public advocacy.

SECTION 8. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

Any files maintained by the state or local long-term care ombudsman program shall be disclosed only at the discretion of the long-term care ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(1) Such complainant or resident, or the complainant or resident's legal representative, consents in writing to such disclosure; or

(2) Such disclosure for good cause is required by court order.

SECTION 9. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

State or local long-term care ombudsman programs may not be operated by any public agency or private nonprofit organization that is:

(1) Responsible for licensing or certifying long-term care facilities or other residential facilities for older persons;

(2) An association, or an affiliate or agent of an association, of long-term care facilities; or

(3) Associated with or has control of or is controlled by persons who are providers of long-term care services, facilities or supplies.

SECTION 10. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The office of the state long-term care ombudsman program may establish substate long-term care ombudsman program units or designate long-term care ombudsman responsibilities.

(2) A local long-term care ombudsman program may be sponsored by the state unit on aging, an area agency on aging, or a local nonprofit agency; however, any local program shall be designated part of the statewide program only by the state long-term care ombudsman.

(3) Area agencies on aging providing support and activities to the state long-term care ombudsman program as authorized under the federal older Americans act and as directed by the state unit on aging.

SECTION 11. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

Criteria to be used by the state long-term care ombudsman program in identifying, soliciting and selecting organizations or agencies to carry out long-term care ombudsman functions on the local level shall include, in addition to that provided under this Act, that the proposed unit:

(1) Has no conflicts of interest which would impair its ability to vigorously and impartially investigate complaints in the interests of elderly long-term care residents;

(2) Has a reputation for or a strong interest in improving long-term care for older, institutionalized persons;

(3) Does not receive directly or indirectly any funds, monies or contributions from any provider of long-term care services or organizations for long-term care providers;

(4) Is not housed with or part of the Commonwealth's long-term care licensure and certification program; and

(5) Provides assurances in writing to the state long-term care ombudsman program that it will:

(a) Provide or supply adequate supervision to any paid or volunteer staff;

(b) Describe and establish lines of accountability and responsibility within its organization and the state level program for all activities in which it is engaged as local ombudsman;

(c) Accept assignments of complaints from and make referrals of complaints to the state long-term care ombudsman program in a timely manner;

(d) Document and report, in a timely manner such complaints and referrals and, in a form specified by the state long-term care ombudsman program;

(e) Maintain ombudsman records to insure the confidentiality of the information contained in them;

(f) Abide by procedures established by the state long-term care ombudsman program relating to:

1. Access to facilities, residents, and residents' personal and medical records;

2. Disclosure of residents' identities; and

3. Disclosure of information in ombudsman file;

(g) Participate, through its staff and volunteers, in training and other support events and activities organized by the state long-term care ombudsman program;

(h) Gather and report other information as requested by the state long-term care ombudsman program;

(i) Coordinate activities with area agencies on aging; and

(j) Establish an advisory board with required membership as provided under Section 14 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

Designated local long-term care ombudsman programs shall:

(1) Represent all long-term care residents residing in long-term care facilities within the assigned geographical area;

(2) Assure residents' rights are upheld and promote quality care in long-term care facilities;

(3) Promote citizen involvement in order to assure regular visitations especially for those residents without available family or friends;

(4) Investigate and work to resolve complaints on behalf of residents in long-term care facilities;

(5) Record and report complaint information as required by the state long-term care ombudsman program;

(6) Advise the public about, or arrange for the availability of current state, local, and federal inspection report statements of deficiency and plans for correction for individual long-term care facilities in the service area;

(7) Advertise the existence and function of the local and state long-term care ombudsman program;

(8) Promote visitation programs for long-term care residents;

(9) Create and assist in the development of resident, family and friends' councils;

(10) Sponsor community surveys or evaluations of long-term care facilities and the publishing of consumer information guides; and

(11) Present community education and training programs to long-term care facilities, human service workers, families, and the general public about long-term care and residents' rights issues.

SECTION 13. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

Local advocacy programs desiring to become designated as a substate long-term care ombudsman program unit shall:

(1) Submit to the state long-term care ombudsman program a plan which explains how the program will meet minimum program requirements;

(2) Upon plan approval meet required training standards of the state long-term care ombudsman program;

(3) Sign a memorandum of understanding with the state long-term care ombudsman program;

(4) Be issued by the state long-term care ombudsman program a certificate and an identification card; and

(5) Be designated for one (1) year and may be recertified on an annual basis.

SECTION 14. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) Local long-term care ombudsman programs shall have advisory boards whose functions, on behalf of the respective local program shall be to:

(a) Monitor the implementation of the local program's policies and procedures;

(b) Provide on-going support and leadership to the local program; and

(c) Identify and generate funding resources for local program viability.

(2) The advisory board shall be made up of persons with a strong interest in improving the quality of life for the institutionalized elderly and for protecting their rights. Group size and composition should be individualized to the needs of the local program but shall not be less than seven (7). One-third (1/3) of the members shall be consumers or family members of consumers.

(3) Advisory board members shall not:

(a) Be responsible for certifying or licensing long-term care facilities;

(b) Be a provider of long-term care services or part of an association of such providers;

(c) Have any interest or association which may impair the ability of the local ombudsman to objectively and independently investigate and resolve complaints; or

(d) Gain economically or receive any compensation from a long-term care facility provider or association.

SECTION 15. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The director of the state long-term care ombudsman program may accept and expend gifts and grants from any source except from a provider of long-term care services or an association of providers of long-term care services. Such moneys shall go into a trust and agency fund to be administered by the program to further the purposes of the provisions of this Act. The funding for the state long-term care ombudsman program shall include at least one percent (1%) of Title III (B) of the Older Americans Act funding received by the Commonwealth during each fiscal year.

HB 447, AN ACT relating to alcoholism, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "public place" shall have the same meaning as it does in KRS 525.010.

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) A person is guilty of drinking alcoholic beverages in a public place when he drinks an alcoholic beverage in a public place, or in or upon any passenger coach, or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, or waiting room.

(3) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less that twenty-five dollars ($25).

(4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

In addition to any other penalty prescribed by law for violation of subsection (1) and (2) of Section 2 of this Act the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:

(1) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.

(2) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.

(3) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

(4) Failure to complete the treatment program or to pay the amount specified by the treatment program shall constitute contempt of court and the court may, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of treatment or education program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) A peace officer shall make an arrest for a violation of Section 2 of this Act.

(2) Any peace officer who arrests a person for violation of Section 2 of this Act shall take him to jail. At the jail it shall be determined if the person has committed a previous offense under Section 2 of this Act.

(3) A citation shall be issued to such person showing thereon the date of such person's appearance in court and whether the offense is prepayable or not.

(4) Unless it has been determined that the defendant has had two (2) prior convictions for violation of Section 2 of this Act within the previous twelve (12) months, the citation shall be marked as prepayable.

(5) If it is determined that this is a third or subsequent offense, then the provisions of KRS Chapter 431 with regard to bail and pretrial release shall apply.

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) A person who has been arrested and placed in jail prior to trial for violation of Section 2 of this Act and has not had two (2) prior convictions in the previous twelve (12) months for violation of Section 2 of this Act shall be released:

(a) To an adult who is willing to accept responsibility for the defendant through a signature verification on a form determined by the administrative office of the courts;

(b) If he pays the requisite amount of bail on a bail schedule issued by the court;

(c) At such time as he is able to safely care for himself but in no event shall he be detained for more than eight (8) hours following his arrest;

(d) If he is ordered released by a court of competent jurisdiction; or

(e) Unless such person's release is precluded by other provisions of law.

(2) The jail releasing the defendant shall be considered as acting in good faith and shall not be liable for subsequent acts of the defendant upon release.

Section 6. KRS 431.062 is amended to read as follows:

No person shall be detained in jail prior to trial for any offense defined in KRS 431.060, 500.080, or 532.020 as a violation unless:

(1) He has previously failed to make a court appearance required in connection therewith; or

(2) Is a fugitive from justice.

(3) This section shall not apply to the offenses listed in KRS 431.015 *or Section 2 of this Act.*

Section 7. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, [~~and~~] 189.940(5), *and Section 2 of this Act.*

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221,

189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 8. KRS 431.100 is amended to read as follows:

(1) Except as provided in subsection (2), of this section all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2) Fines and forfeitures imposed by law for violation of Section 2 of this Act or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the state treasury, which shall not lapse, which shall be used solely by the cabinet for human resources for the provision of treatment and counseling programs for alcoholics.

Section 9. KRS 525.100 is amended to read as follows:

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of [~~alcohol, or~~] a controlled substance, or other intoxicating substance, *excluding alcohol (unless the alcohol is present in combination with any of the above)*, not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

Section 10. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) [~~Any person who violates KRS 244.020 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) or imprisoned not less than five (5) nor more than thirty (30) days, or both.~~

~~(3)~~] Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year, nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(3)[~~(4)~~] Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(4)[~~(5)~~] Any person, firm or corporation violating any provision of KRS 244.083 and 244.085 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(5)[~~(6)~~] Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

Section 11. KRS 244.020, Drinking or being under influence of alcoholic beverages in public place prohibited, is hereby repealed.

Section 12. Acts 1980, Chapter 254; Acts 1982, Chapter 312 and Acts 1984, Chapter 205 are repealed.

Section 13. It is the intent of the General Assembly that the amendments and repealers of Acts 1980, Chapter 254 and Acts 1982, Chapter 312 not become effective and that the statutes affected thereby remain as not amended or not repealed, except as affected by this Act or by legislation other than Acts 1980, Chapter 254; Acts 1982, Chapter 312; and Acts 1984, Chapter 205, passed during 1980, 1982 and 1984.

Section 14. Because the provisions of Acts 1982, Chapter 312 are to become effective July 1, 1986, fifteen (15) days before the normal effective date of other legislation passed at the 1986 Regular Session of the general assembly and would create a conflict therewith, an emergency is declared to exist and this Act shall become effective on July 1, 1986.

The Committee Amendment No. 1 to HB 447 is as follows:

Amend printed copy of HB 447:

On page 1, line 4,

By adding after "*KRS 525.010*" the following phrase "*, provided that for violations of subsection (2) of section 2 of this Act the definition shall not include any public place where a license under KRS Chapter 243 to sell distilled spirits, wine or beer by the drink has been obtained.*"

On page 4, line 9,

by inserting after the word "*released*" the phrase "*as set forth by the supreme court rule of criminal procedure uniform schedule of bail*"

On page 4, line 10,

by changing the word "*To*" to lower case "*to*"

And on page 6, line 16,

by deleting the phrase "*which shall be used*" and by inserting in lieu thereof the following phrase:

"*and which, effective July 1, 1987, shall be used*"

HB 661, AN ACT relating to juvenile sexual offenders and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall operate a pilot program for the treatment of juvenile sexual offenders, hereinafter referred to as the "program."

(2) The general purpose of the program is to provide early intervention and treatment for the juvenile sexual offender in an effort to impact the progression to adult criminal activity. Recognizing the significance of this offense, the program will deter reoffenses through mandatory follow-up and serve to protect potential victims in the community.

SECTION 2. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) A "juvenile sexual offender" as used in this chapter is an individual under the age of eighteen (18) years who has committed an offense under KRS Chapter 510 or other offenses when, within the discretion of the juvenile court judge based on case history, the judge deems the child in need of such treatment.

(2) A juvenile sexual offender becomes an "eligible sexual offender" when the juvenile court determines that the offender:

(a) Is at least five (5) years older then the victim;

(b) Uses physical force or threat of force, express or implied; or

(c) Has a case history that provides documentation of a long-term pattern of sexually inappropriate behavior.

SECTION 3. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) Upon formal adjudication by the juvenile court, the juvenile court judge, upon the recommendation of the social service case worker, may refer the offender to the program for treatment and evaluation.

(a) A referral to the program shall be for a period of not less than two (2) years.

(b) At any time prior to the expiration of the two (2) year period, the cabinet may recommend to the juvenile court that the juvenile offender is no longer benefiting from participation in the program. The written report shall include information about the treatment received by such offender, a diagnosis of the offender's current condition, and recommendations made by the staff. Upon receipt of the written report, the juvenile court judge shall make a determination regarding early release from the program.

(c) At any time prior to the expiration of the two (2) year period, the cabinet may recommend to the juvenile court that the juvenile offender be denied further participation in the program based on documentation of noncompliance, absenteeism or unwillingness to acknowledge responsibility for sexually inappropriate behavior. The written report shall include information about the treatment received by such offender, a diagnosis of the offender's current condition, and recommendations made by the staff. Upon receipt of the written report, the juvenile court judge shall schedule a hearing within sixty (60) days to consider redisposition.

(2) Upon successful completion of the program, the cabinet shall notify the juvenile court. A written report shall include information about the treatment received by such offenders, a diagnosis of the offender's current condition, and recommendations made by the staff. Upon receipt of the written report, the juvenile court judge shall issue a final disposition.

SECTION 4. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall have the sole authority and responsibility for establishing the design of the specialized program created in this Act and when necessary, shall consult with the administrative office of the courts and the corrections cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources may enter into agreements with public or private agencies in order to implement and operate the program created by this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall maintain complete and comprehensive data on each offender participating in the program along with an annual statistical report outlining program operation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

A juvenile sex offender treatment board shall be created as an advisory body to the cabinet for human resources solely for the purpose of monitoring program operation and facilitating linkages with appropriate resources.

SECTION 8. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The board shall be composed of the following members:

(1) Members appointed by the governor for a term of four (4) years:

(a) Two (2) employes of the cabinet for human resources who deal with the problems of children or domestic violence;

(b) Two (2) employes of the corrections cabinet, at least one (1) of whom shall be a social worker dealing with sexual offenders;

(c) A commonwealth's attorney;

(d) A county attorney;

(e) A district judge;

(f) A local police officer dealing with juvenile offenders or sexual offenders; and

(g) Three (3) citizens at large who have demonstrated interest in the treatment of juvenile sexual offenders.

(2) Members who serve as voting members on an ex officio basis:

(a) The commissioner of state police or his designee; and

(b) The attorney general or his designee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The board shall do all of the following:

(1) Meet not less than four (4) times annually at the call of the secretary of the cabinet for human resources, who shall act as the chairperson;

(2) Issue an annual report which shall be transmitted to the legislative research commission and appropriate interim committees of the general assembly and to the governor. The annual report shall include the following:

(a) A review of the operation of the program, including statistical data concerning participation in the program;

(b) Recommendations for the coordination and exchange of information on the establishment and maintenance of the program;

(c) Proposals for statewide educational and public informational training seminars on the issue of treatment of the juvenile sex offender;

(d) Establishment of a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the program; and

(e) Recommendations to the governor and the general assembly for changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of juvenile sexual offenders, improve communication and coordination among state agencies and improve the opportunity for juvenile sexual offenders and their families to receive treatment.

SECTION 10. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall maintain on file, for a period of fifteen (15) years following their participation in the program, the names and identities of the individuals who participated. Such names and identities shall not be disclosed except for the purposes allowed in this section.

(2) On a biannual basis, beginning in the 1988-90 biennium, the cabinet shall request from the administrative office of the courts and the corrections cabinet information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted or incarcerated for any offense under KRS Chapter 510 or any other criminal offense.

(3) On or before January 1, 1990, and for each two (2) years thereafter, the cabinet for human resources shall compile the information obtained and present it to the general assembly and the governor as part of the juvenile sex offender treatment board's annual report. Such report shall not contain the names of any of the individuals who participated in the program, but shall contain such identifying information as shall be helpful in evaluation of the program and in determination of whether participants have engaged in criminal behavior as adults..

Section 11. To carry out the purposes of this Act, there is appropriated to the cabinet for human resources out of the general fund in the state treasury the following sums:

FY 1986-87	$150,000
FY 1987-88	$150,000

The Committee Substitute to HB 661 is as follows:

HB 661, AN ACT relating to juvenile sexual offenders and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall operate a pilot program for the treatment of juvenile sexual offenders, hereinafter referred to as the "program"

(2) The general purpose of the program is to provide early intervention and treatment for the juvenile sexual offender in an effort to impact the progression to adult criminal activity. Recognizing the significance of these offenses, the program will deter reoffenses through mandatory follow-up and serve to protect potential victims in the community.

SECTION 2. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) A "juvenile sexual offender" as used in this chapter is an individual under the age of eighteen (18) years who has committed an offense under KRS Chapter 510 or other offenses when, within the discretion of the juvenile court judge as based on case history, the judge deems the child in need of such treatment.

(2) A juvenile sexual offender becomes an "eligible sexual offender" when the juvenile court determines that the offender:

(a) Is at least five (5) years older than the victim; or

(b) Uses physical force or threat of force, express or implied; or

(c) Has a case history that provides documentation of a long-term pattern of sexually inappropriate behavior.

SECTION 3. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) Upon final adjudication by the juvenile court, the juvenile court judge or other authority designated by the juvenile court judge will initiate a referral to the program for evaluation and treatment as indicated.

(2) The program shall develop a written treatment agreement detailing the responsibilities of the juvenile sexual offender, family, and program to include but not be limited to: attendance, participation in education, participation in planning and completion of treatment goals, curfew, visits of appropriate staff to the home, participation in parenting groups and family counseling, continuing required contacts with the program, schools, and courts, ensuring legal rights, and discharge criteria.

(3) The written treatment agreement shall be presented to the court and the court shall include the agreement as part of its order except for good cause shown.

(4) The treatment shall be for a period of not less than two (2) years.

(5) The program shall be responsible for forwarding written reports every sixty (60) days to the juvenile court judge concerning the participation of the juvenile sexual offender and family in the treatment program. The written report shall include information about the treatment received by such offender and family, an assessment of the offender's current condition, and recommendations by the staff.

(6) The case may be called for review upon the recommendation of the staff by the juvenile court judge at

any time during the course of treatment. The review may be called to consider documentation of noncompliance, absenteeism, or unwillingness to acknowledge responsibility for sexually inappropriate behavior.

(7) A discharge review shall be requested by the program sixty (60) days prior the recommended release date. The juvenile court judge shall schedule a hearing to formally consider the recommendation of release from the program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall have the sole authority and responsibility for establishing the design of the specialized program created in this Act, but shall consult with the administrative office of the courts and the corrections cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources may enter into agreements with public or private agencies in order to implement and operate the program created by this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall maintain complete and comprehensive data on each offender participating in the program along with an annual statistical report outlining program operation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

A juvenile sex offender treatment board shall be created as an advisory body to the cabinet for human resources and its council on social services solely for the purpose of monitoring program operation and facilitating linkages with appropriate resources.

SECTION 8. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The board shall be composed of the following members:

(1) Members appointed by the governor for a term of four (4) years:

(a) Two (2) employes of the cabinet for human resources who deal with the problems of children or domestic violence;

(b) Two (2) employes of the corrections cabinet, one (1) of whom shall be a specialist dealing with sex offenders;

(c) A commonwealth's attorney;

(d) A county attorney;

(e) A district judge;

(f) A local police officer dealing with juvenile offenders or sex offenders;

(g) The juvenile justice supervisor of the justice cabinet; and

(h) Three (3) citizens at large.

(2) Members who serve as voting members on an ex officio basis:

(a) The commissioner of state police or his designee; and

(b) The attorney general or his designee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The board shall carry out its duties and responsibilities under this Act until June 30, 1992, at which time the council for social services established by KRS 194.090 shall assume the duties and responsibilities of the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

The board shall do all of the following:

(1) Meet not less than four (4) times annually at the call of the secretary of the cabinet for human resources, who shall act as the chairperson;

(2) Issue an annual report which shall be transmitted to the legislative research commission and appropriate interim committees of the general assembly and to the governor. The annual report shall include the following:

(a) A review of the operation of the program, including statistical data concerning participation in the program;

(b) Recommendations for the coordination and exchange of information on the establishment and maintenance of the program;

(c) Proposals for statewide educational and public informational training seminars on the issue of treatment of the juvenile sex offender;

(d) Establishment of a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the program; and

(e) Recommendations to the governor and the general assembly for changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of juvenile sexual offenders, improve communication and coordination among state agencies and improve the opportunity for juvenile sexual offenders and their families to receive treatment.

(3) Serve as board members without compensation, but be reimbursed for expenses.

SECTION 11. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall maintain on file, for a period of fifteen (15) years following their participation in the program, the names and identities of the individuals who participated. Such names and identities shall not be disclosed except for the purposes allowed in his section.

(2) On a biannual basis, beginning in the 1988-90 biennium, the cabinet shall request from the administrative office of the courts and the corrections cabinet information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted or incarcerated for any offense under KRS Chapter 510 or any other criminal offense.

(3) On or before January 1, 1990, and for each two (2) years thereafter, the cabinet for human resources shall compile the information obtained and present it to the general assembly and the governor as part of the juvenile sex offender treatment board's annual report. Such report shall not contain the names of any of the individuals who participated in the program, but shall contain such identifying information as shall be helpful in evaluation of the program and in determination of whether participants have engaged in criminal behavior as adults.

The Committee Title Amendment to the Committee Substitute to HB 661 is as follows:

Amend printed copy of HB 661:

By amending the title to read as follows:

"AN ACT relating to juvenile sexual offenders."

HB 697, AN ACT relating to pharmacies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Every pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed stating that: "This pharmacy is required to dispense the lowest priced generic drug which is therapeutically equivalent to the one prescribed for you by your doctor unless you or your doctor do not approve. The Commonwealth's Kentucky drug formulary council has approved these therapeutically equivalent drug products. Ask your pharmacist." The printing on the sign shall be in block letters not less than one (1) inch in height. The cabinet for human resources shall publish and distribute the sign to each pharmacy within the Commonwealth.

The Committee Amendment No. 1 to HB 697 is as follows:

Amend printed copy of HB 697 on page 1, line 6, by inserting after the word "*drug*" the words "*in stock*";

And by deleting lines 9 and 10 in their entirety;

And on line 12, by deleting the word "*block*";

And on line 12, by deleting the word "*The*";

And by deleting lines 13 and 14 in their entirety.

The Committee Amendment No. 2 to HB 697 is as follows:

Amend printed copy of HB 697:

On page 1, line 3,

By inserting a subsection number "*(1)*" in front of the words "*Every pharmacy*"

And on line 15,

By adding the following new subsection to read as follows:

"*(2) This Act shall be cited as the Bob Hughes Act of 1986.*"

HB 747, AN ACT relating to creation of a developmental disabilities planning council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the cabinet for human resources a developmental disabilities planning council.

(2) The developmental disabilities planning council is established to comply with the requirements of the developmental disabilities act of 1984, P.L. 98-527, and any subsequent amendment to that act.

(3) The members of the developmental disabilities planning council shall be appointed by the governor to serve as advocates for persons with developmental disabilities. The council shall be composed of representatives of the principal state agencies administering funds provided under the rehabilitation act of 1973, P.L. 93-112; the education of the handicapped act, P.L. 91-230, as amended; the single state agency designated by the governor for administration of title XIX of the social security act; higher education training facilities, each university affiliated facility or satellite center in the Commonwealth; the protection and advocacy system established under section 142 of P.L. 98-527; and local agencies, non-governmental agencies, and non-profit groups concerned with services to persons with developmental disabilities:

(a) At least one-half (1/2) of the membership of the council shall be composed of persons with developmental disabilities or the parents or guardians of such persons or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employes or persons with ownership or controlling interest in any other entity which receives funds or provides services under the

developmental disabilities act of 1984. Of these members, at least one-third (1/3) shall be persons with developmental disabilities and at least one-third (1/3) shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities meeting the conditions listed in this subsection. At least one (1) of these relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

(b) Members not representing principal state agencies shall be appointed for a term of three (3) years, except the initial appointments shall be made in the following manner: six (6) members shall be appointed for a term of three (3) years, five (5) members shall be appointed for a term of two (2) years, and five (5) members shall be appointed for a term of one (1) year.

(c) The planning council shall elect its own chairman, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employes shall be reimbursed for necessary and actual expenses. The cabinet for human resources shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

(4) The developmental disabilities planning council shall develop jointly with the cabinet and any other agencies designated to administer or supervise the administration of the state plan as required by part B of the developmental disabilities act of 1984, P.L. 98-527, including the specification of priority services required by that plan; monitor, review and evaluate, not less often than annually, the implementation of this plan; to the maximum extent feasible, review and comment on all state plans which relate to persons with developmental disabilities; and submit to the secretary of the cabinet such periodic reports on its activities as required by the United States department of health and human services and keep such records and afford such access thereto as the cabinet finds necessary to verify such report.

The Committee Substitute to HB 747 is as follows:

HB 747, AN ACT relating to creation of a developmental disabilities planning council and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the cabinet for human resources a developmental disabilities planning council.

(2) The developmental disabilities planning council is established to comply with the requirements of the developmental disabilities act of 1984, P.L. 98-527, and any subsequent amendment to that act.

(3) The members of the developmental disabilities planning council shall be appointed by the governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-four (24) members of which twelve (12) are representatives of the principal state agencies administering funds provided under the rehabilitation act of 1973, P.L. 93-112; the education of the handicapped act, P.L. 91-230, as amended; the single state agency designated by the governor for administration of title XIX of the social security act; higher education training facilities, each university affiliated facility or satellite center in the Commonwealth; the protection and advocacy system established under section 142 of P.L. 98-527; and local agencies, non-governmental agencies, and non-profit groups concerned with services to persons with developmental disabilities:

(a) At least twelve (12) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of such persons or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employes or persons with ownership or controlling interest in any other entity which receives funds or provides services under the developmental disabilities act of 1984. Of these members, at least four (4) members shall be persons with developmental disabilities and at least four (4) members shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities meeting the conditions listed in this subsection. At least one (1) of these relatives or guardians shall be an immediate relative or guardian of an institutionalized person with a developmental disability. At least one (1) member of the council shall represent and advocate for the interests and rights of disabled, newborn infants.

(b) Members not representing principal state agencies shall be appointed for a term of three (3) years, except the initial appointments shall be made in the following manner: four (4) members shall be appointed for a term of three (3) years, four (4) members shall be appointed for a term of two (2) years, and four (4) members shall be appointed for a term of one (1) year.

(c) The planning council shall elect its own chairman, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employes shall be reimbursed for necessary and actual expenses. The cabinet for human resources shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

(4) The developmental disabilities planning council shall develop jointly with the cabinet and any other agencies designated to administer or supervise the administration of the state plan as required by part B of the developmental disabilities act of 1984, P.L. 98-527, including the specification of priority services required by that plan; monitor, review and evaluate, not less often than annually, the implementation of this plan; to the maximum extent feasible, review and comment on all state plans which relate to persons with developmental disabilities; and submit to the secretary of the cabinet such periodic reports on its activities as required by the United States department of health and human services and keep such records and afford such access thereto as the cabinet finds necessary to verify such report.

Section 2. Whereas, the council's reorganization process has started, the council is in the process of developing its three year program plan, and information regarding membership must be included in that plan, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Motions, Petitions and Communications (continued)

Representative Farrow requested that he be recorded as voting "yea" on HB 613. Agreed.

Representative Maggard requested that he be recorded as voting "yea" on HB 613. Agreed.

Representative Cowan requested that he be recorded as changing his vote from "yea" to "nay" on SB 105. Agreed.

Representative Richards moved the adoption of the following HR 128:

HR 128, A RESOLUTION naming Jim Wayne Miller a poet laureate of Kentucky.

WHEREAS, distinguished poet and professor, Jim Wayne Miller, is a resident of Bowling Green, Kentucky, and a faculty member at Western Kentucky University; and

WHEREAS, Mr. Miller's many poetic honors include the Alice Lloyd Memorial Award for Appalachian Poetry, the outstanding book of 1984 award from the Appalachian Writers Association, for *Vein of Words*, and the invitation to read from his works at the Folger Shakespeare Library; and

WHEREAS, Mr. Miller has served as writer-in-residence at Centre College and East Tennessee State University; and

WHEREAS, Mr. Miller's poems have appeared in numerous anthologies and journals, as well as in collections of his own, including *Copperhead Cane*, his first volume of poetry, and his just-published *Nostalgia for 70*; and

WHEREAS, Mr. Miller has been invited to give numerous readings and to conduct poetry workshops at many schools; and

WHEREAS, Mr. Miller was recently named state coordinator for the Jesse Stuart Foundation for a year-long observation of Stuart's eightieth birth year; and

WHEREAS, Jim Wayne Miller is one of Kentucky's most accomplished poets;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House names Jim Wayne Miller a Kentucky poet laureate.

Section 2. That when the House adjourns this day, Wednesday, March 5, 1986, it does so in honor of Jim Wayne Miller.

Section 3. That a copy of this resolution be sent to Jim Wayne Miller.

HR 128 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 989, by Representative Bendl: AN ACT relating to medical care.

HB 990, by Representative Guenthner: AN ACT relating to motor carriers.

Representative Richards moved the adoption of the following HR 140:

HR 140, A RESOLUTION requesting the governor to develop effective state programs and mechanisms to deal with the problems of business failure, plant closure, reemployment and retaining of dislocated workers in order to alleviate the negative impact of such on the Kentucky economy.

WHEREAS, there has been a significant number of business failures in Kentucky during recent years and many of these businesses would still be contributing to the Kentucky economy if management advice, marketing advice and some capital had been available; and

WHEREAS, there has been a significant number of plant closures in Kentucky during recent years and some of these plants remain empty because of lack of capital sources and the limited reutilization permitted by certain state laws; and

WHEREAS, the efforts to secure alternative employment and retraining for unemployed workers have been insignificant in view of the numbers of workers which have been displaced; and

WHEREAS, local governments need guidance, professional expertise and capital support in restructuring their local economies to foster long term economic vitality; and

WHEREAS, state and local leaders need an economic early warning system so that they may institute activities to counter declining growth and the negative impacts of a constantly changing national and international economy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the governor is urged to form a study commission composed of her secretaries of commerce, labor, human resources and finance and administration and participants from appropriate areas of the private sector to consider and evaluate legislation which is being used by Massachusetts and other states to solve economic problems.

Section 2. That this study commission prepare legislation tailored to the needs of Kentucky for presentation to the 1988 General Assembly.

Section 3. That the preparation of such legislation include practical financing mechanisms that would be self-perpetuating rather than dependent upon biennial appropriations.

HR 140 was adopted by voice vote.

Representative Cline moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative L. Clark, HB 197, HB 697; Representative P. Clark, HB 197; Representative Lile, HB 456, HB 726; Representative Maggard, HB 689; Representative Rapier, HB 915.

Announcements

The following meetings were announced:

Committee on Rules: On adjournment.

Committee on State Government: On adjournment, Speaker Pro Tempore's office.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 7, 1985.

On the roll call the vote was yeas 72—Allen, Bendl, Bennett, Blandford, Brinkley, Bronger, M. Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Crupper, Curd, Cyrus, Dawahare, Ellington, Farrow, Ford, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lile, Little, Mack, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Napier, Nett, Noe, O'Brien, Pearman, Preston, Priddy, Pritchett, Reinhardt, B. Richardson, P. Richardson, Riner, Rose, Siler, Smith, Stewart, Stone, Strong, Stumbo, Thomas, Todd, Turner, White, Williams, Worthington, Yates. Nays 2—Blevins, Donnermeyer.

FRIDAY, MARCH 7, 1986

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Jo Riley, First Christian Church, Hopkinsville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Clarke.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 6, 1986, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 84, SB 151, SB 236, SB 237, SB 299, SB 306, SB 310, SB 325, SB 358, SB 360, HB 8 by way of Senate Committee Substitute, HB 140 with Senate Amendment, HB 181 with Senate Amendments, HB 142 and HB 557.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: HB 916, HB 926.

Appropriations and Revenue: HB 920, HB 921, HB 922, HB 923, HB 929, HB 930, HB 938, SB 288, HB 980, HB 990.

Banking and Insurance: HB 917, HJR 139.

Counties and Special Districts: HB 935.

Education: HB 924, HB 940, HJR 126, HCR 132, HR 134, HCR 136.

Energy: HB 968.

Health and Welfare: HB 925, HB 989.

Judiciary-Civil: HB 932, HB 933, HB 934.

Judiciary-Criminal: HB 927, HB 931, HB 936.

Natural Resources and Environment: HB 928, HB 985, SB 235.

State Government: HB 918, HB 919, HB 941, HR 130 , HCR 133, HCR 135, HJR 137, SB 267, SB 269, SB 270, SB 316.

Transportation: HB 937, HB 939.

Posting of Bills for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Agriculture and Small Business: HB 875, SB 242.

Report of Committees

The Committee on Rules reported HB 183, HB 203, HB 226, HB 245, HB 507, HB 570, HB 667, HB 680, HB 685, HB 686, HB 687, HB 706, HB 722, HB 753, HB 760, HB 769, SB 76, SB 86, SB 240, HB 134, HB 326, HB 691, and HCR 65 have been posted for passage March 10, 1986.

The Committee on Rules reported HB 469 has been recommitted to the Committee on Appropriations and Revenue.

Report on Enrolled Bills

The Committee on Enrollment reported HJR 1 and HB 612 had been examined and found correctly enrolled. Said bill and resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—10:08 a.m.)

HJR 1 and HB 612 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report of Committees (continued)

The Committee on State Government reported HB 284, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 284, AN ACT relating to personal service contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Payments for personal services, however designated, on a one-time basis not exceeding one thousand dollars ($1,000) per calendar year shall not be subject to review by the subcommittee; however, the payment documents shall be filed with the subcommittee for informational purposes at the time of payment.

(2) Personal service contracts on which the estimated cost is less than one thousand dollars ($1,000) shall be exempt from review by the subcommittee pursuant to KRS 45A.100. Personal service contracts and amendments thereto, less than one thousand dollars ($1,000) shall be filed with the subcommittee prior to their effective date pursuant to KRS 45.710 for informational purposes. The subcommittee shall periodically examine the informational copies of the personal service contracts less than one thousand dollars ($1,000) and payment for personal services less than one thousand dollars ($1,000) and may request agency participation in discussions relative to their contracts or payments. If a personal service contract less than one thousand dollars ($1,000) is amended to the extent the amended total of the contract exceeds one thousand dollars ($1,000) per calendar year, the amended contract shall be placed on the agenda for the subcommittee's review.

Section 2. KRS 45.715 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the personal service contract review subcommittee. The subcommittee shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts received by the legislative research commission shall be submitted to the subcommittee to:

(a) Examine the stated need for the contract service;

(b) Examine whether the service could or should be performed by state personnel; and

(c) Examine the cost and duration of the contract.

[~~The subcommittee's finding that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive shall be reported to the contracting body.~~] In the event the subcommittee believes that the contract service, other than an emergency contract approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall attach to the personal service contract a written notation of its disapproval or objection, including a statement of the reasons therefor, and shall return the personal service contract to the *secretary of the finance and administration cabinet* [~~contracting body~~]. Notice of such disapproval or objection shall be given by the subcommittee to the director of the legislative research commission. The subcommittee shall act on a personal service contract submitted to the legislative research commission within *forty-five (45)* [~~thirty (30)~~] days of the submission of the personal service contract.

(5) *Upon receipt of the subcommittee's disapproval or objection to a personal service contract,* [~~All personal service contracts objected to or disapproved by the subcommittee shall be forwarded to the finance and administration cabinet.~~] the secretary of the finance and administration cabinet shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee; or

(b) Cancelled if disapproved by the subcommittee; or

(c) Remain effective as originally approved by the finance and administration cabinet.

(6) The *secretary of the* finance and administration cabinet shall notify the subcommittee of the action taken on personal service contracts referred to the finance and administration cabinet by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(7) The subcommittee shall report monthly to the legislative research commission all action taken on personal service contracts by the *secretary of the* finance and administration cabinet and the subcommittee.

Section 3. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employe of any budget unit who wilfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244 , he and his sureties shall be jointly and severally liable therefor.

(3) Any violation of KRS 45.360 shall be punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not less than one (1) year, nor more than five (5) years, or by both fine and imprisonment in the discretion of the jury.

(4) *Any violation of KRS 45.700 through KRS 45.720 shall be a Class A misdemeanor.*

(5) Any employe of the division of purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including but not limited to personal service contracts, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year, nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(6)[~~(5)~~] Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including but not limited to personal service contracts, to any employe of the division of purchases or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

The Committee Substitute to HB 284 is as follows:

HB 284, AN ACT relating to personal service contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Personal service contracts on which the estimated cost does not exceed one thousand dollars ($1,000) shall be exempt from review by the subcommittee pursuant to KRS 45A.100. Personal service contracts of one thousand dollars ($1,000) or less shall be filed with the subcommittee prior to their effective date pursuant to KRS 45.710 for informational purposes. The subcommittee shall periodically examine the informational copies of the personal service contracts less than one thousand dollars ($1,000) and payment for personal services less than one thousand dollars ($1,000) and may request agency participation in discussions relative to their contracts or payments.

(2) All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective date. If a personal service contract less than one thousand dollars ($1,000) is amended to the extent the amended total of the contract exceeds one thousand dollars ($1,000) per calendar year, the amended contract shall be placed on the agenda for the subcommittee's review.

Section 2. KRS 45.715 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the personal service contract review subcommittee. The subcommittee shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts received by the legislative research commission shall be submitted to the subcommittee to:

(a) Examine the stated need for the contract service;

(b) Examine whether the service could or should be performed by state personnel; and

(c) Examine the cost and duration of the contract.

[~~The subcommittee's finding that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive shall be reported to the contracting body.~~] In the event the subcommittee believes that the contract service, other than an emergency contract approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall attach to the personal service contract a written notation of its disapproval or objection, including a statement of the reasons therefor, and shall return the personal service contract to the *secretary of the finance and administration cabinet* [~~contracting body~~]. Notice of such disapproval or objection shall be given by the subcommittee to the director of the legislative research commission. The subcommittee shall act on a personal service contract submitted to the legislative research commission within *forty-five (45)* [~~thirty (30)~~] days of the submission of the personal service contract.

(5) *Upon receipt of the subcommittee's disapproval or objection to a personal service contract,* [~~All personal service contracts objected to or disapproved by the subcommittee shall be forwarded to the finance and administration cabinet.~~] the secretary of the finance and administration cabinet shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee; or

(b) Cancelled if disapproved by the subcommittee; or

(c) Remain effective as originally approved by the finance and administration cabinet.

(6) The *secretary of the* finance and administration cabinet shall notify the subcommittee of the action taken on personal service contracts referred to the finance and administration cabinet by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(7) The subcommittee shall report monthly to the legislative research commission all action taken on personal service contracts by the *secretary of the* finance and administration cabinet and the subcommittee.

Section 3. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employe of any budget unit who wilfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244 , he and his sureties shall be jointly and severally liable therefor.

(3) Any violation of KRS 45.360 shall be punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not less than one (1) year, nor more than five (5) years, or by both fine and imprisonment in the discretion of the jury.

(4) *Any wilful violation of KRS 45.700 through KRS 45.720 shall be a Class A misdemeanor.*

(5) Any employe of the division of purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including but not limited to personal service contracts, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year, nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(6)[~~(5)~~] Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including but not limited to personal service contracts, to any employe of the division of purchases or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

The Committee on Judiciary-Criminal reported HB 311 with Committee Substitute attached thereto, HB 433 with Committee Substitute attached thereto, HB 621, HB 772, and HB 741 with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 311, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.

(2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped.

(3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses [~~living apart under a decree of judicial separation~~] are not married to one another for purposes of this chapter *if:*

(a) They are living apart; or

(b) Either or both spouses have filed a petition under KRS Chapter 403.

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent.

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party.

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

The Committee Substitute to HB 311 is as follows:

HB 311, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.

(2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped.

(3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses [~~living apart under a decree of judicial separation~~] are not married to one another for purposes of this chapter *if either or both spouses have filed a petition under KRS Chapter 403.*

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent.

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party.

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

Section 2. KRS 523.020 is amended to read as follows:

(1) A person is guilty of perjury in the first degree when he makes a material false statement, which he does not believe, in any official proceeding under an oath required or authorized by law*; or* [.]

(2) When he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law, with the intent to mislead a public servant in the performance of his official functions when such person is subscribing a warrant accusing his spouse of an offense under KRS Chapter 510.

(3) Perjury in the first degree is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

The arrest record of anyone accused by his spouse of an offense under KRS Chapter 510 shall be expunged if said charge was either dismissed with prejudice or a verdict of not guilty on said charge was entered.

HB 433, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.010 is amended to read as follows:

(1) A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

(2) Criminal homicide also includes causing the death of an unborn child, if in performing the acts which caused the death of the unborn child the actor, without lawful justification:

(a) Either intended to kill or do great bodily harm to the mother or her unborn child or knew that such acts would cause death or great bodily harm to the mother or her unborn child;

(b) He knew that his acts created a strong probability of death or great bodily harm to the mother or her unborn child; and

(c) He knew, or reasonably should have known under all of the circumstances, that the mother was pregnant.

(3) For purposes of this section, "unborn child" means an individual organism of the species homo sapiens from fertilization until live birth.

(4) This law shall not apply to acts of physicians which cause the death of an unborn child if those acts were committed during a lawful pregnancy termination.

(5) The provisions of this section shall not be construed to prohibit the prosecution of any person under any other provision of law.

The Committee Substitute to HB 433 is as follows:

HB 433, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.010 is amended to read as follows:

(1) A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

(2) Criminal homicide also includes causing the death of an unborn child, if in performing the acts which caused the death of the unborn child the actor, without lawful justification:

(a) Either intended to kill or do great bodily harm to the mother or her unborn child or knew that such acts would cause death or great bodily harm to the mother or her unborn child;

(b) He knew that his acts created a strong probability of death or great bodily harm to the mother or her unborn child; and

(c) He knew, or reasonably should have known under all of the circumstances, that the mother was pregnant.

(3) For purposes of this section, "unborn child" means an individual organism of the human species that has reached the prenatal stage of viability permitting it to live and grow if prematurely separated from its mother or that has reached the twenty-sixth (26th) week of gestation, whichever occurs earlier.

(4) This law shall not apply to the acts of physicians which cause the death of an unborn child if those acts are committed during medically acceptable procedures necessary for the medical care of the mother.

(5) This law shall not apply to acts of physicians which cause the death of an unborn child if those acts were committed during a lawful pregnancy termination.

(6) The provisions of this section shall not be construed to prohibit the prosecution of any person under any other provision of law.

HB 621, AN ACT relating to crime and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) No court shall impose sentence for conviction of a felony which involved a crime against a person, other than a capital offense for which death will be the penalty actually imposed, without first ordering a victim impact report after conviction and giving consideration to a written report of such impact. This report shall be in addition to the report required by KRS 532.050.

(2) The report shall be prepared and presented by a probation officer and shall include:

(a) The name, age, sex, race, and address of the victim;

(b) Any personal injury suffered by the victim and its nature and outcome;

(c) Any other economic loss suffered by the victim;

(d) An interview with the victim, or if deceased, the victim's next of kin, with regard to the impact of the crime upon the victim and the victim's family; and

(e) Any other information deemed pertinent by the probation officer or requested by the court.

(3) In the event the victim of the crime is a corporation or other business entity, the report may be limited to an identification of the victim and the loss suffered.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any victim impact report and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The sources of confidential information need not, however, be disclosed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the release of a person convicted of a crime against a person on parole, the parole board shall:

(a) Secure a copy of the presentence investigation report and read it;

(b) Secure a copy of the victim impact report and read it; and

(c) Cause an updating of the victim impact report by a probation officer by a further interview with the victim, or if deceased, the victim's next of kin. This updating shall include all of the items listed in Section 1 of this Act and shall include the further question. "What are your views with regard to the release of the defendant in this case on parole or other form of early release?"

(2) The updated victim impact report shall be submitted in writing to the parole board which shall read it.

(3) When the parole board releases a person convicted of a crime against a person on parole, the minutes of the board shall reflect consideration of the victim impact report and its influence on the decision of the board.

HB 772, AN ACT relating to theft by deception.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal. *An issuer makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section.*

(c) If a county attorney issues notice to an issuer that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the holder of five dollars ($5.00), if said instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is $100 or more, in which case it is a Class D felony.

HB 741, AN ACT relating to the crime victims compensation board and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS 346.010 to 346.180, the board may award a lump sum payment not to exceed twenty-five thousand dollars ($25,000) to the family of a police officer employed by a city, county or urban-county government who is killed in the line of duty as a police officer for such city, county or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county or urban-county.

(2) This Act shall apply to any officer killed in the line of duty since January 1, 1986.

Section 2. Whereas the death of a police officer in the line of duty can cause financial hardships to the family of such officer which would be alleviated by this Act, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

The Committee Substitute to HB 741 is as follows:

HB 741, AN ACT relating to the crime victims compensation board and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS 346.010 to 346.180, the board may award a lump sum payment not to exceed twenty-five thousand dollars ($25,000) to the family of a police officer employed by a city, county or urban-county government who is killed in the line of duty as a police officer for such city, county or urban-county and who is not eligible to receive death or disability benefits under a pension plan of the city, county or urban-county.

(2) This section shall apply to any officer killed in the line of duty since January 1, 1986.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any person whose parent or any non-married widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state supported university, community college or vocational training institution.

(2) In order to obtain the benefits conferred by subsection (1) of this section, the parent-child relationship

must be shown by birth certificate, adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky justice cabinet or appropriate city or county law enforcement agency which employed the deceased.

(3) If one so admitted to a state supported university, community college or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state supported university, community college or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky justice cabinet or appropriate city or county law enforcement agency which employed the disabled, or if deceased the claim to benefits is to be based on the rating held by the law enforcement officer at the time of death. The parent's or spouse's service and rating must be evidenced by certification from the records of the Kentucky justice cabinet or the appropriate local law enforcement agency.

(3) In the absence of certification of permanent and total disability by the Kentucky workers' compensation board or the Kentucky justice cabinet or the appropriate local law enforcement agency, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse or child to benefits under this section the disabled law enforcement officer must have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer.

(6) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 4. Whereas the death of a police officer in the line of duty can cause financial hardships to the family of such officer which would be alleviated by this Act, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

The Committee Title Amendment to the Committee Substitute to HB 741 is as follows:

Amend printed copy of Committee Substitute to HB 741:

To delete the title appearing thereon and to insert in lieu thereof the following: "AN ACT relating to benefits for survivors of police officers killed in the line of duty, and declaring an emergency."

Calendar

HB 745, SB 260, HB 743, SB 99, SB 100, SB 101, SB 130, HB 172, HB 192, HB 419, HB 456, HB 468, HB 495, HB 520, HB 556, HB 567, HB 632, HB 652, HB 704, HB 781, HB 815, HB 816, HR 86, SB 61, SB 159, SB 245, HB 262, HB 398, HB 53, HB 57, HB 447, HB 661, HB 697, and HB 747 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 205, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of the Committee Amendment No. 1 to HB 205. Agreed.

Representative Long moved the adoption of the Committee Amendment No. 2 to HB 205. Agreed.

Representative Mack moved that HB 205, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 7, 1986, roll call on HB 205—Appendix A.)

HB 205, as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which HB 205, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 642, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to HB 642.

Representative Overstreet inquired as to whether Floor Amendment No. 1 to HB 642 was germane.

The Speaker ruled Floor Amendment No. 1 to HB 642 was not germane to the bill.

Representative Kerr moved that HB 642 be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 7, 1986, roll call on HB 642—Appendix A.)

HB 642 was passed and the title agreed to.

Representative Kerr moved that the vote by which HB 642 was passed be reconsidered and motion be placed on the table. Agreed.

HB 105 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that HB 105 be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 7, 1986, roll call on HB 105—Appendix A.)

HB 105 was passed and the title agreed to.

Representative Maggard moved that the vote by which HB 105 was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed on its passage. Agreed by a majority of members elected.

Representative Bennett moved that HB 360 be passed.

Representative Farrow moved that HB 360 be recommitted to the Committee on Agriculture and Small Business for further study.

On the roll call the vote was Yeas: 31—Allen, Arnold, Caldwell, Clapp, Crupper, Donnermeyer, Farrow, Ford, Freibert, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Holbrook, Holloway, Jensen, R. Jones, Layman, Lear, Long, Lyne, McNutt, Morris, Reinhardt, B. Richardson, Smith, Stewart, Todd, White, Williams. Nays: 50—Barrows, Bennett, Blandford, Blevins, Brinkley, Bronger, F. Brown, M. Brown, Bruce, Burch, Burnette, L. Clark, P. Clark, Cline, Cowan, Curd, Cyrus, Deskins, Ellington, Gray, Handy, Heleringer, Hines, Johnson, T. Jones, Kerr, Lile, Little, Maggard, Mann, Meyer, Moberly, Nett, Noe, Noland, Overstreet, Pearman, Preston, Priddy, Pritchett, Riner, Rose, Scorsone, Seum, Siler, Stone, Strong, Stumbo, Worthington, Yates.

The motion that HB 360 be recommitted to the Committee on Agriculture and Small Business was rejected.

On the roll call the vote was: Yeas 61, Nays 25. (See March 7, 1986, roll call on HB 360—Appendix A.)

HB 360 was passed and the title agreed to.

Representative Bennett moved that the vote by which HB 360 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 50, SB 52, SB 155, and SB 208 had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—10:47 a.m.)

Orders of the Day (continued)

HB 510, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute to HB 510. Agreed.

Representative Mann moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to HB 510. Agreed.

Representative Mann moved that HB 510, by way of Committee Substitute as amended be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 7, 1986, roll call on HB 510—Appendix A.)

HB 510, way way of Committee Substitute as amended, was passed.

Representative Mann moved the adoption of the Floor Title Amendment to HB 510, Agreed; and the title was agreed to.

Representative Mann moved that the vote by which HB 510, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported HB 142 and HB 557 had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—11:02 a.m.)

HB 142 and HB 557 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 666, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Amendment No. 1 to HB 666. Agreed.

Representative Meyer moved the adoption of the Floor Amendment No. 1 to HB 666. Agreed.

Representative Holbrook moved the adoption of the Floor Amendment No. 2 to HB 666.

On the roll call the vote was, Yeas: 35—Bendl, F. Brown, Burch, Cowan, Curd, Dawahare, Ellington, Ford, Freibert, Guenthner, Hancock, J. Harper, Holbrook, Holloway, Johnson, R. Jones, Layman, Lear, Lile, Little, Long, Mack, McNutt, Morris, Pearman, Preston, Rapier, Rattliff, Rose, Scorsone, Seum, Siler, Stewart, Turner, Worthington. Nays: 21—Bronger, L. Clark, P. Clark, Cyrus, Donnermeyer, Farrow, Gedling, Gray, Gregory, Kerr, Lefevers, Mann, McBee, Moberly, Nett, Noland, Priddy, Pritchett, Richards, Smith, Yates.

Floor Amendment No. 2 to HB 666 was adopted.

Representative Holbrook moved that HB 666, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 7, 1986, roll call on HB 666—Appendix A.)

HB 666, as amended, was passed and the title agreed to.

HB 698, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of the Floor Amendment No. 1 to HB 698.

Representative Bronger moved the Floor Amendment No. 1 to HB 698 be laid on the Clerk's desk.

On the roll call the vote was Yeas: 40—Allen, Bronger, Bruce, Burnette, Clapp, P. Clark, Crupper, Curd, Cyrus, Dawahare, Ellington, Farrow, Ford, Gedling, Gray, Guenthner, Hancock, J. Harper, Head, Heleringer, Holloway, Jensen, Keith, Lefevers, Lile, McBee, McElroy, O'Brien, Overstreet, Pearman, Preston, Rattliff, Rose, Seum, Smith, Stewart, Todd, White, Worthington, Yates. Nays: 47, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, F. Brown, M Brown, Burch, Caldwell, L. Clark, Cline, Cowan, Deskins, Donnermeyer, Freibert, Gregory, K. Harper, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Little, Long, Mack, Maggard, Mann, McNutt, Meyer, Moberly, Noe, Noland, Priddy, Rapier, Richards, B. Richardson, Scorsone, Stone Strong, Stumbo, Thomas, Turner.

The motion that Floor Amendment No. 1 to HB 698 be laid on the Clerk's desk was rejected.

Representative Cowan moved the adoption of the Floor Amendment No. 1 to HB 698. Agreed.

Representative Cowan moved that HB 698, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 7, 1986, roll call on HB 698—Appendix A.)

HB 698, as amended, was passed and the title agreed to.

Representative Cowan moved that the vote by which HB 698, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 628 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that HB 628 be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See March 7, 1986, roll call on HB 628—Appendix A.)

HB 628 was passed and the title agreed to.

Representative Priddy moved that the vote by which HB 628 was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported SB 54, SB 55, SB 56, SB 58, SB 59, SB 105, and SB 106 had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—11:28 a.m.)

Orders of the Day (continued)

HB 220, with Senate Amendment attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to HB 220 is as follows:

Amend printed copy of HB 220 as follows:

On page 1, line 5, after the word "exceed" by deleting the comma.

Representative Yates moved that the House concur in the Senate Amendment to HB 220. Agreed.

Representative Yates moved that HB 220, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 78, Nays 9. (See March 7, 1986, roll call on SB 220—Appendix A.)

HB 220, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which HB 220, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions. Agreed.

Introduction of Resolutions

HR 142, by Representative Deskins: A RESOLUTION adjourning the House of Representatives in honor of the Mullins High School Men's Varsity Cheerleading Squad.

HB 143, by Representative Head: A RESOLUTION adjourning the House of Representatives in memory and honor of Amy Kirk.

HR 144, by Representative Deskins: A RESOLUTION adjourning the House of Representatives in honor of the Pikeville High School Girls' Varsity Cheerleading Squad and their sponsors Lisa Wheeler and Susan Gray.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bill:

Banking and Insurance: HB 966.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: HB 966, HJR 139.

Transportation: HB 338, HB 647, HB 713, HB 740, HB 806, HJR 80, SB 211, HB 873.

Judiciary-Civil: SB 250, HB 649.

Business Organizations and Professions: HB 884.

State Government: HCR 131, HB 813, SJR 44, HB 908.

Health and Welfare: HB 989.

Judiciary-Criminal: HB 855.

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Transportation: HB 786.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to HB 667, by Representative Johnson:

Amend printed copy of HB 667:

On page 1 after the enacting clause by deleting the page in its entirety

On page 2 by deleting the page in its entirety

On page 3 by deleting the page in its entirety

On page 4 by deleting lines one through seven

on line 8 after SECTION by deleting "2" and placing in lieu thereof "1".

Floor Title Amendment to SB 76, by Representative Dawahare:

Amend printed copy of GA Copy of Senate Bill 76:

Amend the title to read:

"AN ACT relating to insurance and declaring an emergency."

Floor Amendment No. 1 to SB 76, by Representative Dawahare:

Amend printed copy of GA Copy of SB 76:

By adding on page 6, after line 23, the following:

Section 2. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years—90% of benefits~~

~~28 years—80% of benefits~~

~~27 years—70% of benefits.~~]

[~~(c)~~]

Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under *paragraph* (a) *of this subsection* who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 3. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher

and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 4. KRS 161.540 is amended to read as follows:

(1) Effective *July 1, 1986* [~~July 1, 1984~~], each member shall contribute to the retirement system *nine and eight hundred and fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred and seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 5. Whereas contributions to the retirement system must be made at the beginning of the fiscal year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Floor Amendment No. 1 to HB 149, by Representative Morris:

Amend printed copy of HB 149:

On page 2, after line 6, by adding the following:

"*(7) "Small business and industry" means a Kentucky based company, with capitalization of less than five hundred thousand dollars ($500,000), anticipated to employ less than fifty (50) people.*"

and on line 22, by bracketing ([]) and striking through the words "*is unlimited*" and inserting in lieu thereof, "*shall be limited for any one business entity to less than five hundred thousand dollars ($500,000)*".

Floor Title Amendment to SB 86, by Representative Dawahare:

Amend printed copy of GA Copy of SB 86:

By amending the title to read:

"AN ACT relating to insurance and declaring an emergency."

Floor Amendment no. 3 to SB 86, by Representative Dawahare:

Amend printed copy of GA Copy of SB 86:

By adding on page 6, after line 16, the following:

Section 2. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years—90% of benefits~~

~~28 years—80% of benefits~~

~~27 years—70% of benefits.~~]

[~~(c)~~]

Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under *paragraph* (a) *of this subsection* who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 3. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 4. KRS 161.540 is amended to read as follows:

(1) Effective *July 1, 1986* [~~July 1, 1984~~], each member shall contribute to the retirement system *nine and eight hundred and fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred and seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 5. Whereas contributions to the retirement system must be made at the beginning of the fiscal year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Floor Title Amendment to SB 240, by Representative Dawahare:

Amend printed copy of GA Copy of SB 240:

By amending the title to read as follows:

"AN ACT relating to the citizens of the Commonwealth and declaring an emergency."

Floor Amendment No. 1 to SB 240, by Representative Dawahare:

Amend printed copy of GA Copy of SB 240:

On page 2, after line 14, insert the following:

"Section 2. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of *twenty-seven (27)* [~~thirty (30)~~] years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. [~~A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years—90% of benefits~~

~~28 years—80% of benefits~~

~~27 years—70% of benefits.~~]

[~~(c)~~] Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under *paragraph* (a) *of this subsection* who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 3. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than *twenty-seven (27)* [~~thirty (30)~~] years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than *twenty-seven (27)* [~~thirty (30)~~] years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 4. KRS 161.540 is amended to read as follows:

(1) Effective *July 1, 1986* [~~July 1, 1984~~], each member shall contribute to the retirement system *nine and eight hundred and fifty-five thousandths percent (9.855%)* [~~nine and six-tenths percent (9.6%)~~] of annual compensation except that university faculty members shall contribute *eight and three hundred and seventy-five thousandths percent (8.375%)* [~~eight and twelve-hundredths percent (8.12%)~~] of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe

contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 5. Whereas contributions to the retirement system must be made at the beginning of the fiscal year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Floor Amendment No. 1 to HB 946, by Representative K. Harper:

Amend printed copy of HB 946:

On page 4, after line 8, by adding the following:

"Northern Kentucky Port Authority

400 Licking Pike

Wilder, Kentucky 40171 . . . . $20,672.07."

Floor Amendment No. 1 to Committee Substitute to HB 262, by Representative Keith:

On page 2, line 2, by deleting the figures "$59,006,400" and "$64,716,800", and inserting in lieu thereof the figures "$59,109,200" and "$64,816,400";

and on line 5, after the word "personnel", by replacing the period punctuation mark with a comma, and inserting therein the following:

"*and funds to support one new circuit judgeship in the 41st circuit.*"

On page 3, line 3, by deleting the figures "$2,188,400" and "$2,210,300", and inserting in lieu thereof the figures "$2,195,900" and "$2,217,800".

and on line 14, by deleting the figures "$70,042,200" and "$76,611,300" and inserting in lieu thereof the figures "$70,152,500" and "$76,718,400".

Representative J. Harper moved that HB 38, HB 108, and HB 99 be withdrawn. Agreed.

Representative Head moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Head moved the adoption of the following HR 143:

HR 143, A RESOLUTION adjourning the House of Representatives in memory and honor of Amy Kirk.

With heartfelt sorrow we pay homage and tribute to the memory of our lost child, Amy Kirk.

WHEREAS, Amy Kirk briefly blessed this earth for fourteen years; and

WHEREAS, Amy Kirk has tragically crossed that final bourne from which no traveller returns; and

WHEREAS, Amy Kirk was an exemplary student, proficient in school sports and active in numerous school activities; and

WHEREAS, the inexplicable loss of Amy Kirk is mourned by her parents, Dale and Charlotte Kirk, her friends and acquaintances whose lives she enriched with her smile;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House express their deep sense of bereavement and loss and mourn the untimely passing of young Amy Kirk.

Section 2. That this honorable body commends Dale and Charlotte Kirk to the solace of the Almighty to endure these anguished and tormented hours, and to seek an understanding of the devestating loss of dearest Amy.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Friday, March 7, 1986, it does so in memory and honor of its native daughter, Amy Kirk.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to the family of Amy Kirk, in care of her father Dale Kirk, Principal, Crittenden County High School.

HR 143 was adopted by voice vote.

Representative Head moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Clapp moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION honoring Jamie Brazzell of Wingo, Kentucky, the 1986 Easter Seal Poster Child.

WHEREAS, Jamie Brazzell of Wingo, Kentucky, the son of Jim and Denise Brazzell, was selected as the 1986 Easter Seal Poster Child; and

WHEREAS, a congenital spinal cord injury deprived Jamie of the use of his arms and legs, but did not destroy his will or his courage; and

WHEREAS, with the encouragement of his parents, and of admiring and supportive school officials, and his teacher, Leila Woodson, Jamie Brazzell attends regular third grade classes at the Wingo Elementary School; and

WHEREAS, Jamie is an honor student who handles the standard workload without expecting special privileges; and

WHEREAS, participating in the National Easter Seal Telethon this month, as well as visiting the White House and fulfilling his other responsibilities, will give Jamie a very busy year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes Kentuckian Jamie Brazzell, the 1986 Easter Seal Poster Child, and wishes him a good year.

Section 2. That when the House adjourns this day, Friday, March 7, 1986, it does so in tribute to Jamie Brazzell.

Section 3. That copies of this resolution be sent to Jamie Brazzell and to his principal at the Wingo Elementary School, Donald Spicer.

HR 127 was adopted by voice vote.

Representative Deskins moved that the rules be suspended for the purpose of acting upon two Resolutions. Agreed.

Representative Deskins moved the adoption of the following HR 142:

HR 142, A RESOLUTION adjourning the House of Representatives in honor of the Mullins High School Men's Varsity Cheerleading Squad.

WHEREAS, the Kentucky Organization of Pep Sponsors annually orchestrates a state competition of cheerleading squads to coincide with the state men's "Sweet Sixteen" basketball tournament; and

WHEREAS, the varsity cheerleading squad for men's sporting events of Mullins High School in Pikeville, Kentucky were runners-up in the fifty-ninth district championship title and thereby advanced to the regional cheerleading competition; and

WHEREAS, on March 1st the Mullins High School men's varsity cheerleading squad and three other district winners and runner-up squads, competed for the coveted regional cheerleading crown at Johnson-Central High School, host of the prestigious event, in Paintsville, Kentucky; and

WHEREAS, the victorious and spirited Mullins High School men's varsity cheerleading squad now advances to the state competition, which will be held on March 22nd at Memorial Coliseum in Lexington, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly honors the Mullins High School men's varsity cheerleading squad Sponsor Shirley Justice, Assistant Sponsor Diwana Hinkle and squad members Kelli Meade, Angie Haley, Jamie Turner, Angel Justice, Angie Justice, Harria Stamper, Tyra Stapleton, Sabrina West, Crissy Morris and Dari Meade for their excellence in athletic competition.

Section 2. That the members of this honorable body hereby commend, hail and recognize Sponsor Shirley Justice, Assistant Sponsor, Diwana Hinkle and squad members Kelli Meade, Angie Haley, Jamie Turner, Angel Justice, Angie Justice, Harria Stamper, Tyra Stapleton, Sabrina West, Crissy Morris and Dari Meade to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That the members of the House extend to the Mullins High School men's varsity cheerleading squad best wishes for continued success in the forthcoming state competition.

Section 4. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Friday, March 7, 1986, it does so in honor of Shirley Justice, Diwana Hinkle and the entire Mullins High School men's varsity cheerleading squad.

Section 5. That the Clerk of the House is directed to transmit a copy of this resolution to Mullins High School Principal Richard Goodman, Sponsors Shirley Justice and Diwana Hinkle and to each member of the cheerleading squad at 12265 North Mayo Trail, Pikeville, Kentucky 41501.

HR 142 was adopted by voice vote.

Representative Deskins moved the adoption of the following HR 144:

HR 144, A RESOLUTION adjourning the House of Representatives in honor of the Pikeville High School Girls' Varsity Cheerleading Squad and their sponsors Lisa Wheeler and Susan Gray.

WHEREAS, the 15th Regional KAPOS Cheerleading Competition was held on March 1, 1986; and

WHEREAS, at this distinguished competition the Pikeville Girls' Varsity Squad received the following awards: Best Plain Cheer, Best Gymnastics Cheer, and Best Pom Pom Routine; and

WHEREAS, the Pikeville High School Girls' Varsity Cheerleaders triumphed over three squads to win the title; and

WHEREAS, prior to conquering the regional title, the Pikeville Cheerleaders were chosen the 59th District Champions; and

WHEREAS, this outstanding squad will now advance to the state competition that will be held in Bowling Green on March 28, 1986; and

WHEREAS, the Pikeville High School Girls' Varsity Cheerleaders have shown great determination, skill, and spirit;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend the Pikeville High School Girls' Varsity Cheerleading Squad upon the occasion of winning the 15th Regional KAPOS Competition.

Section 2. That when the House of Representatives adjourns this day, March 10, 1986, it does so in honor of sponsors Lisa Wheeler and Susan Gray and squad members Kristy Blair, Lisa Clifton, Christy Damron, Margaret Gillespie, Suzanne Kinzer, Stacy McCoin, Kathleen McDonald, Michelle Passidomo, Michelle Ratliff, and Tammy Tomlinson.

Section 3. That the Clerk of the House is directed to transmit sufficient copies of this resolution to cheerleading sponsors Lisa Wheeler and Susan Gray at 116 North Mayo Trail, Pikeville, Kentucky 41501, for distribution to members of the squad.

HR 144 was adopted by voice vote.

Representative Little moved the adoption of the following Legislative Citation No. 47:

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes PTA board members for your hard work and willingness to be a vital part of the functions of your school. Your dedication and leadership in school and community activities have bestowed great honor and pride on your family, school, community and the Commonwealth of Kentucky. The fact that you are interested in your school and what it is doing for education is most noteworthy and commendable.

This prestigious body applauds and salutes you for your contribution of energy and knowledge as you have influenced and inspired the lives of many young people. (Sponsored by Representative Lile)

Agreed.

Representative Deskins moved that the rules be suspended to reconsider the vote by which HB 537 was defeated and that it be placed in Orders of the Day for Monday, March 10, 1986.

On the roll call the vote was Yeas: 36—Arnold, Barrows, Bendl, Blevins, Brinkley, Bronger, Bruce, Burch, L. Clark, P. Clark, Crupper, Deskins, Donnermeyer, Hancock, Keith, Kerr, Layman, LeMaster, Little, Long, Mann, McBee, McElroy, Meyer, Moberly, Morris, Overstreet, Priddy, Rapier, Rose, Stone, Strong, Stumbo, Thomas, White, Worthington. Nays: 18—Ellington, Farrow, Ford, Freibert, Gedling, Guenthner, J. Harper, K. Harper, Holbrook, Lear, Lyne, Noland, O'Brien, Reinhardt, Richards, Stewart, Todd, Turner.

The motion that the vote by which HB 537 was defeated be reconsidered and that it be placed in Orders of the Day for Monday, March 10, 1986, was rejected.

Representative Little moved that HB 886 be reassigned to the Committee on State Government. Agreed.

The following members requested that the rules be suspended to allow recording of votes. All requests were agreed to.

Representative Blevins, "yea" on HB 628; Representative Deskins, "yea" on HB 360; Representative Head, "yea" on HB 105; Representative Hines, "yea" on HB 627; Representative Layman, "yea" on HB 611, "yea" on HB 402; Representative Richards, change from "nay" to "yea" on HB 344, change from "nay" to "yea" on HB 360; Representative B. Richardson, change from "yea" to "nay" on HB 360; Representative Riner, change from "nay" to "yea" on HB 360; Representative Rose, change from "nay" to "yea" on HB 698; Representative Williams, change from "nay" to "abstain" on HB 360.

Announcements

The following meetings were announced:

Committee on Natural Resources and Environment: Special meeting on Monday, March 10, 1986, on adjournment.

Committee on Rules: On adjournment, State Reception Room.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 10, 1986.

The motion to adjourn was adopted by voice vote.